

# EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

RONALD GONZALEZ,	)	
Plaintiff,	)	
	)	
VS.	)	CIVIL ACTION: 5:15-CV-986 RCL
	)	
UNITED PARCEL SERVICE,	)	
Defendant.	)	

\* \* \* \* \*

ORAL & VIDEO DEPOSITION OF

RONALD D. GONZALEZ

MAY 24, 2017

\* \* \* \* \*

ORAL & VIDEO DEPOSITION of RONALD D. GONZALEZ, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on the 24th of May, 2017, from 10:57 a.m. to 6:15 p.m., before JULIE VERASTEGUI, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of Thomas J. Crane, 110 Broadway, Suite 420, San Antonio, Texas 78205, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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ALSO PRESENT:

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Corporate Representative for UPS;  
DAVID FLORES,  
The Videographer;

RONALD D. GONZALEZ,  
The Witness;  
JULIE VERASTEGUI,  
The Court Reporter.

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Exhibit 18 North Hills Family Medicine Letter 212  
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<p>1 THE VIDEOGRAPHER: In the matter of</p> <p>2 Ronald B. Gonzalez vs. United Parcel Service in the</p> <p>3 United States District Court for the Western District of</p> <p>4 Texas, San Antonio Division, Civil No. 515-CV-986 RCL,</p> <p>10:56:24 5 this is the deposition of Ronald Gonzalez, taken this</p> <p>6 24th day of May 2017, at the Law Offices of Thomas J.</p> <p>7 Crane, 110 Broadway, San Antonio, Texas.</p> <p>8 Our court reporter is Julie Verastegui. I</p> <p>9 am the court -- I am the videographer, David Flores.</p> <p>10:56:46 10 Would counsels please introduce</p> <p>11 themselves?</p> <p>12 Counsels for the plaintiff.</p> <p>13 MR. CRANE: Tom Crane for the plaintiff.</p> <p>14 MS. KILGORE: Hi. I'm Susan Kilgore for</p> <p>10:56:54 15 the plaintiff.</p> <p>16 THE VIDEOGRAPHER: Counsels for the</p> <p>17 defense.</p> <p>18 MR. BARBOUR: Justin Barbour for the</p> <p>19 defendant, and I'm accompanied by Harlen Schulze,</p> <p>10:57:00 20 corporate representative for UPS.</p> <p>21 THE VIDEOGRAPHER: We are on the record at</p> <p>22 10:57 a.m.</p> <p>23 Madam Court Reporter, please swear in our</p> <p>24 witness.</p> <p>10:57:19 25 -o0o-</p>	<p>1 Q. And you understand that you'll do your best to</p> <p>2 try and testify truthfully and accurately in response to</p> <p>3 the questions that I will be asking you today?</p> <p>4 <b>A. Yes.</b></p> <p>10:58:33 5 Q. Our court reporter is taking down everything</p> <p>6 that we say here today. You understand that?</p> <p>7 <b>A. Yes, I do.</b></p> <p>8 Q. To make sure we have a clean record, it's</p> <p>9 important that you give verbal answers, not uh-huh,</p> <p>10:58:47 10 uh-uhs or shakes of the head and things like that. Is</p> <p>11 that fair?</p> <p>12 <b>A. Understood. Uh-huh.</b></p> <p>13 Q. If at any point today you don't understand a</p> <p>14 question that I ask you, will you please agree to let me</p> <p>10:58:59 15 know you don't understand the question?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And if at any point you need a break, just let</p> <p>18 me know. This isn't --</p> <p>19 <b>A. Okay.</b></p> <p>10:59:07 20 Q. -- intended to be a marathon here today.</p> <p>21 <b>A. All right.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. Very well.</b></p> <p>24 Q. My -- My only request would be that if there's</p> <p>10:59:13 25 a question pending, that you answer that question that's</p>
Page 7	Page 9
<p>1 RONALD D. GONZALEZ,</p> <p>2 having been first duly sworn, testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MR. BARBOUR:</p> <p>10:57:45 5 Q. Could you state and spell your name for the</p> <p>6 record, please, sir?</p> <p>7 <b>A. Ronald Darrell Gonzalez. Ronald, R-O-N-A-L-D.</b></p> <p>8 <b>Darrell, D-A-R-R-E-L-L. Gonzalez, G-O-N-Z-A-L-E-Z.</b></p> <p>9 Q. Mr. Gonzalez, my name's Justin Barbour, and I</p> <p>10:58:01 10 represent United Parcel Service.</p> <p>11 Do you understand that?</p> <p>12 <b>A. Yes, sir.</b></p> <p>13 Q. And you understand you're here today to give a</p> <p>14 deposition in conjunction with a lawsuit that you filed</p> <p>10:58:11 15 against UPS?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Have you ever given a deposition before, sir?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Have you ever testified in court previously?</p> <p>10:58:19 20 <b>A. No.</b></p> <p>21 Q. Since you haven't, I'll briefly walk you</p> <p>22 through some of the procedures and how we'll -- we'll go</p> <p>23 about this today.</p> <p>24 You understand you're under oath, correct?</p> <p>10:58:25 25 <b>A. Correct.</b></p>	<p>1 pending, and then we'll go ahead and take a break at</p> <p>2 that point. Is that fair?</p> <p>3 <b>A. Sounds fair.</b></p> <p>4 Q. Okay. Mr. Gonzalez, is there any way -- any</p> <p>10:59:25 5 reason -- excuse me -- that you wouldn't be able to</p> <p>6 testify truthfully here today?</p> <p>7 <b>A. I will testify truthfully.</b></p> <p>8 Q. Okay. Are you taking any medications that</p> <p>9 would affect your memory?</p> <p>10:59:35 10 <b>A. I do take medication.</b></p> <p>11 Q. Do you take any med -- Have you taken any</p> <p>12 medications today that affect your memory?</p> <p>13 <b>A. Some of the medications I do take have</b></p> <p>14 <b>reactions.</b></p> <p>10:59:47 15 Q. Okay.</p> <p>16 <b>A. But I'm not sure it's going to impact my</b></p> <p>17 <b>memory.</b></p> <p>18 Q. Okay. Do you feel -- And I -- You know, we'll</p> <p>19 discuss your medications in more detail later on, but do</p> <p>10:59:59 20 you feel as you sit here today that your memory to</p> <p>21 recall events occurring three or four years ago is</p> <p>22 impacted --</p> <p>23 <b>A. No.</b></p> <p>24 Q. -- by any of the medications you've taken</p> <p>11:00:07 25 today?</p>

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1 **A. I don't feel I'll be impacted with**  
 2 **remembering that time period.**  
 3 Q. Okay. I want to ask just some general  
 4 background questions about you, Mr. Gonzalez.  
 11:00:25 5 **A. Yeah.**  
 6 Q. Did you go to high school, sir?  
 7 **A. I did.**  
 8 Q. Where did you go to high school?  
 9 **A. Holy Cross High School.**  
 11:00:29 10 Q. Did you graduate?  
 11 **A. I did.**  
 12 Q. What year did you graduate?  
 13 **A. 1977.**  
 14 Q. Did you take any formal education after high  
 11:00:39 15 school?  
 16 **A. Yes.**  
 17 Q. And where was that?  
 18 **A. I went to St. Edward's University in Austin.**  
 19 Q. Did you graduate from St. Edward's?  
 11:00:49 20 **A. No.**  
 21 Q. Generally, what was your course of study at  
 22 St. Edward's?  
 23 **A. Business. Business marketing.**  
 24 Q. And how long were you enrolled at St. Edward's?  
 11:00:59 25 **A. One year.**

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1 Q. Other than St. Edward's, do you have any other  
 2 formal education?  
 3 **A. Yes.**  
 4 Q. What would that --  
 11:01:11 5 **A. Went to San Antonio College -- or junior**  
 6 **college.**  
 7 Q. What years were you at SAC?  
 8 **A. I would say approximately '78 to '79.**  
 9 Q. Did you get an associate's from SAC?  
 11:01:25 10 **A. No, I did not.**  
 11 Q. What was your course of study at SAC?  
 12 **A. There again, it was towards my business**  
 13 **degree -- working towards my business degree.**  
 14 Q. Other than St. Edward's and your courses at  
 11:01:43 15 San Antonio College, do you have any other formal  
 16 education?  
 17 **A. Yes.**  
 18 Q. What would that be?  
 19 **A. Thomas Edison Uni -- University.**  
 11:01:57 20 Q. You were at Thomas Edison University relatively  
 21 recently, weren't you?  
 22 **A. Yes.**  
 23 Q. And what year did you begin your course of  
 24 study at Thomas Edison?  
 11:02:05 25 **A. Roughly 2012.**

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1 Q. What was it that prompted you to go back to  
 2 school?  
 3 **A. I wanted to advance my career with UPS.**  
 4 Q. What type of courses did you take at Thomas  
 11:02:17 5 Edison?  
 6 **A. I took some natural sciences, communications,**  
 7 **Spanish. Those are pretty much what I recall right now.**  
 8 **There was several others.**  
 9 Q. Are you on -- or are you still enrolled at  
 11:02:39 10 Thomas Edison?  
 11 **A. No.**  
 12 Q. Did you obtain a degree from Thomas Edison?  
 13 **A. I did not.**  
 14 Q. Approximately how many courses per semester  
 11:02:49 15 were you taking at Thomas Edison?  
 16 **A. Two.**  
 17 Q. Were these on-campus courses or remote courses?  
 18 **A. Remote.**  
 19 Q. Were you taking them through the computer, I  
 11:03:01 20 suppose, the Internet and whatnot?  
 21 **A. Yes.**  
 22 Q. Were you on any particular type of degree path  
 23 with Thomas Edison?  
 24 **A. The same.**  
 11:03:07 25 Q. "Same," meaning?

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1 **A. Same path, meaning business. And it -- I may**  
 2 **have changed it to liberal arts. It was -- It was kind**  
 3 **of still up in the -- up in the air, so to speak.**  
 4 Q. When did you take your last course with Thomas  
 11:03:23 5 Edison?  
 6 **A. I would have to -- I'd say -- I believe it was**  
 7 **2014. 2013, 2014.**  
 8 Q. And was there any particular reason that you  
 9 discontinued taking courses with Thomas Edison --  
 11:03:39 10 Edison?  
 11 **A. That's when I was -- began to have some medical**  
 12 **issues and surgery.**  
 13 Q. Did you feel that you were medically incapable  
 14 of continuing the courses at Thomas Edison?  
 11:03:55 15 **A. No.**  
 16 Q. Okay.  
 17 **A. I didn't feel like I was incapable. I just --**  
 18 **I felt I didn't have the time to invest to take the**  
 19 **courses and also respond to treatment.**  
 11:04:03 20 Q. So you felt that the time demands of your  
 21 courses with Thomas Edison were too great to both go to  
 22 the class and to get --  
 23 **A. I didn't --**  
 24 Q. -- to go to your doctors' appointments?  
 11:04:19 25 **A. I didn't know that. I didn't -- No. I**

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1 didn't -- I don't feel that way. It was a choice I made  
 2 to stop at that time.  
 3 Q. On account of the medical issues that you were  
 4 dealing with?  
 11:04:27 5 **A. Right. Not knowing what the outcome was going**  
 6 **to be, not knowing how long rehabilitation takes.**  
 7 Q. And it's fair to say you haven't recommenced  
 8 your courses with Thomas Edison, correct?  
 9 **A. No, sir, not yet.**  
 11:04:43 10 Q. Do you plan to?  
 11 **A. I do.**  
 12 Q. And do you have any dates on which you plan to  
 13 begin those courses again?  
 14 **A. I -- I don't have any dates, no.**  
 11:04:53 15 Q. Okay. Do you have a rough -- Would you say you  
 16 plan to be in those courses in the next year or two?  
 17 **A. I -- I'd say that's fair, yes.**  
 18 Q. Other than the three institutions of higher  
 19 learning that we discussed, do you have any other  
 11:05:11 20 professional certifications or licenses?  
 21 **A. No licenses. Certifications through -- through**  
 22 **work, not UPS, but other employers.**  
 23 Q. And what kind of certifications would those be?  
 24 **A. They're training certifications.**  
 11:05:33 25 Q. And do you recall -- You said that these were

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1 **A. Related to mechanical equipment and plumbing,**  
 2 **possibly plumbing equipment as well.**  
 3 Q. And would those certifications also have been  
 4 to provide you with background into -- excuse me -- to  
 11:07:05 5 demonstrate you have knowledge of the products and  
 6 services that you were marketing at Industrial Systems?  
 7 **A. Yes.**  
 8 Q. Do you recall approximately how many  
 9 certifications you received --  
 11:07:13 10 **A. No.**  
 11 Q. -- while working at Industrial Systems?  
 12 **A. No, sir.**  
 13 Q. And just to ensure that we have a clean record,  
 14 if you'll let me finish my question before you answer  
 11:07:21 15 it, even if --  
 16 **A. Absolutely.**  
 17 Q. -- you think you understand what I'm asking  
 18 you --  
 19 **A. Okay.**  
 11:07:25 20 Q. -- and then I'll make sure that I allow you to  
 21 fully answer before I ask my next question.  
 22 **A. Sure.**  
 23 Q. Do you have any other certifications other than  
 24 those that you received at Oslin and Industrial Systems?  
 11:07:37 25 **A. None that I recall.**

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1 certifications through prior employers; is that correct?  
 2 **A. Yes.**  
 3 Q. Through which employers did you obtain these  
 4 certifications?  
 11:05:45 5 **A. Oslin Nation is one, and Industrial Systems.**  
 6 Q. Okay. Through Oslin, what certifications do  
 7 you recall receiving during your employment there?  
 8 **A. They're trainings from manufacturers that we**  
 9 **represented.**  
 11:06:13 10 Q. Would these be companies whose products you  
 11 were selling or marketing during your --  
 12 **A. Correct.**  
 13 Q. -- work for Oslin?  
 14 **A. Yes.**  
 11:06:21 15 Q. So you would have taken some type of training,  
 16 gotten certification demonstrating that you had  
 17 background and knowledge of what those products were?  
 18 **A. Correct.**  
 19 Q. Okay. Do you recall approximately how many of  
 11:06:35 20 those certifications you received during your employment  
 21 with Oslin?  
 22 **A. No.**  
 23 Q. Okay. What about with Industrial Systems?  
 24 What type of certifications did you receive while  
 11:06:47 25 working there?

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1 Q. Where do you currently live, Mr. Gonzalez?  
 2 **A. 9903 Carolwood Drive.**  
 3 Q. Does anyone else live at that address with you?  
 4 **A. My wife and my son, currently.**  
 11:07:51 5 Q. What is Ms. Gonzalez's name?  
 6 **A. Claudia Wilson de Gonzalez.**  
 7 Q. And you said your son lives with you also?  
 8 **A. Yes.**  
 9 Q. Is your son over or under 18 years old?  
 11:08:05 10 **A. Over.**  
 11 Q. What is your son's name, Mr. Gonzalez?  
 12 **A. Grant Jacob.**  
 13 Q. Does Mrs. Gonzalez work?  
 14 **A. Yes.**  
 11:08:13 15 Q. Where does she work?  
 16 **A. She works for AACOG.**  
 17 Q. Is that the Alamo Co -- Counsel of Governments?  
 18 **A. Alamo Area Counsel of Governments.**  
 19 Q. Excuse me. Alamo Area.  
 11:08:23 20 Approximately how long has she worked at  
 21 AACOG?  
 22 **A. Approximately a year.**  
 23 Q. Okay. Is your son enrolled in school?  
 24 **A. Not right now.**  
 11:08:31 25 Q. Okay. Is he employed?

5 (Pages 14 to 17)

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1 A. No.  
 2 Q. Do you rent or own the house at 9903 Carolwood?  
 3 A. We own.  
 4 Q. As you sit here today, are you relatively up to  
 11:08:45 5 date on your mortgage on that property?  
 6 A. Yes, sir.  
 7 Q. And otherwise, are you generally up to date on  
 8 bills in the household?  
 9 A. Yes, sir.  
 11:08:55 10 Q. Are you employed as you sit here today,  
 11 Mr. Gonzalez?  
 12 A. No, sir.  
 13 Q. Is it fair to say that the last place of  
 14 employment for you would have been at United Parcel  
 11:09:05 15 Service?  
 16 A. Yes.  
 17 Q. Are you receiving any monthly income outside of  
 18 an employment relationship today?  
 19 A. Outside of --  
 11:09:17 20 Q. I guess I can rephrase that.  
 21 A. Yeah.  
 22 Q. Do you currently receive Social Security  
 23 disability benefits?  
 24 A. Yes, I do.  
 11:09:25 25 Q. Do you know approximately how much your monthly

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1 A. Up till his 18th birthday, yes.  
 2 Q. When did your son turn 18, Mr. Gonzalez?  
 3 A. December 30th.  
 4 Q. Of 2016?  
 11:10:31 5 A. Yes.  
 6 Q. Do you have medical insurance as you sit here  
 7 today, Mr. Gonzalez?  
 8 A. I do.  
 9 Q. Is that through Medicare?  
 11:10:45 10 A. Yes.  
 11 Q. And that is provided in conjunction with your  
 12 Social Security disability benefits, is it not?  
 13 A. Clarify your question, please.  
 14 Q. Are you -- Do you -- To the best of your  
 11:10:59 15 knowledge, are you on Medicare because you've been  
 16 approved for Social Security disability benefits?  
 17 A. Yes.  
 18 Q. So is it fair to say that you've been on  
 19 Medicare since approximately April of 2013, when you  
 11:11:11 20 became disabled?  
 21 A. Approximately, yes.  
 22 Q. Now, earlier we discussed that you're here  
 23 today to give a deposition in relationship with a  
 24 lawsuit you filed against UPS. You understand that.  
 11:11:27 25 In your own words, what do you understand

Page 19

1 Social Security benefit is?  
 2 A. Yes.  
 3 Q. How much is that?  
 4 A. About \$2,050.  
 11:09:33 5 Q. Other than your Social Security disability  
 6 income, do you have any other regular income yourself?  
 7 A. No.  
 8 Q. Does your son currently receive Social Security  
 9 benefits --  
 11:09:55 10 A. No.  
 11 Q. -- on account of your disability?  
 12 A. No.  
 13 Q. Did your son ever receive Social Security  
 14 benefits on account of your disability?  
 11:10:01 15 A. Yes.  
 16 Q. Would that have been discontinued when he hit  
 17 the age of 18?  
 18 A. Yes.  
 19 Q. Do you remember what your son's monthly benefit  
 11:10:09 20 was from Social Security?  
 21 A. I do.  
 22 Q. How much is that?  
 23 A. Approximately \$1,069.  
 24 Q. And he would have received that through his  
 11:10:21 25 18th birthday, correct?

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1 your claims against UPS to be?  
 2 A. I understand that I requested a -- an  
 3 accommodation to return to work and I was not allowed to  
 4 return.  
 11:11:47 5 Q. And obviously we'll discuss all of that in  
 6 substantially more detail.  
 7 Do you believe you were discriminated  
 8 against during your employment at UPS?  
 9 A. I do.  
 11:12:03 10 Q. And do you believe that that discrimination  
 11 occurred on account of your disability?  
 12 A. Yes.  
 13 Q. Are there any other characteristics associated  
 14 with you that you believe you were discriminated against  
 11:12:17 15 on the basis of?  
 16 A. I am -- I -- I'm not a lawyer, so I don't know,  
 17 other than my disability and that request that I --  
 18 that -- a process that I went through, the EEOC.  
 19 If there's more to your question or -- you  
 11:12:39 20 might -- Can you repeat your question --  
 21 Q. Yes, sir.  
 22 A. -- so I can --  
 23 Q. I can rephrase that.  
 24 You believe that you were discriminated  
 11:12:47 25 against on account of your disability; is that correct?

6 (Pages 18 to 21)



Page 22

1 A. Yes.  
 2 Q. Do you believe you were discriminated against  
 3 on the basis of anything other than your disability?  
 4 A. Yes.  
 11:12:55 5 Q. And what would that be?  
 6 A. There were other employees working there that  
 7 were out very often that were able to return to work.  
 8 Q. I guess my question is: You believe that other  
 9 folks were allowed to return to work and you were not,  
 11:13:11 10 and you believe that you were discriminated against on  
 11 that account; is that correct?  
 12 A. That's fair to say.  
 13 Q. What about you or -- or what characteristics of  
 14 you do you believe UPS discriminated against you on the  
 11:13:23 15 basis of, other than your disability?  
 16 A. Sounds like the same question. Can you  
 17 rephrase that?  
 18 Q. I can.  
 19 Do you believe you were discriminated  
 11:13:35 20 against on the basis of your sex, for example?  
 21 A. No.  
 22 Q. Okay. Do you believe you were discriminated  
 23 against on the basis of your religion?  
 24 A. No.  
 11:13:43 25 Q. Okay. Is there anything other than your

Page 24

1 retaliated against you?  
 2 A. Yes.  
 3 Q. Why do you think UPS retaliated against you?  
 4 A. I -- Well, my disability, one. I wasn't able  
 11:15:19 5 to return to work 100 percent -- at 100 percent capacity  
 6 or without restrictions.  
 7 Q. Is it fair to say that in terms of -- Well, let  
 8 me strike that.  
 9 The things you're complaining UPS did to  
 11:15:39 10 you that you think were wrong, is it primarily that you  
 11 weren't allowed to return to work?  
 12 A. That -- I would -- Yeah. I don't -- Yes, I  
 13 would say it is primary.  
 14 Q. Okay. And subsequent to that, you were  
 11:15:53 15 terminated from employment, correct?  
 16 A. Yes.  
 17 Q. Okay. And I'm assuming you also believe that  
 18 that was one of the things that UPS did that wronged  
 19 you. Is that correct?  
 11:16:01 20 A. That is what they did that wronged me, yes.  
 21 Q. Other than that, is there anything UPS did that  
 22 you believe was discriminatory or unfair or retaliatory  
 23 towards you?  
 24 A. The determination impacted my -- my life by  
 11:16:23 25 losing my benefits as well.

Page 23

1 disability that you believe you were discriminated  
 2 against on the basis of?  
 3 A. There's two white employees that work there in  
 4 the same group as I that were able -- that were out  
 11:14:01 5 because of a chronic disability that were able to return  
 6 to work.  
 7 Q. Do you believe you were discriminated against  
 8 on the basis of your race?  
 9 A. Yes.  
 11:14:15 10 Q. And what is your race?  
 11 A. I'm Mexican-American, Latino, Hispanic.  
 12 Q. Do you define your race as all three of those?  
 13 A. Well, I -- I -- they're described as many of  
 14 those, I would say.  
 11:14:37 15 Q. I'm just asking in your own words what you  
 16 would describe your race as, for the record.  
 17 A. Well, I'm Hispanic, but if I were to check a  
 18 box and it doesn't give me "Latino" or  
 19 "Mexican-American" and it says "white," I check "white."  
 11:14:51 20 Q. That would be white Hispanic, I think, on most  
 21 of the demographic boxes. Is that --  
 22 A. If you think so --  
 23 Q. -- correct?  
 24 A. -- yes.  
 11:15:01 25 Q. Is one of your claims that you believe UPS

Page 25

1 Q. When you say "the determination," that would be  
 2 the refusal to return to work and your subsequent  
 3 separation from employment, correct?  
 4 A. Yes.  
 11:16:35 5 Q. I want to talk about your employment history  
 6 briefly, Mr. Gonzalez.  
 7 A. Okay.  
 8 Q. Do you know when you began working for UPS?  
 9 A. It was August 5th, I believe, two thousand -- I  
 11:16:53 10 believe it was 2007.  
 11 Q. Prior to working at UPS -- Where did you work  
 12 immediately prior to working at UPS?  
 13 A. Immediately prior to work -- It was with -- It  
 14 was one of two companies. I'm not sure. It may have  
 11:17:09 15 been Popular Tools.  
 16 Q. Okay. Was -- Where was Popular Tools located?  
 17 A. They're on Warfield Drive.  
 18 Q. Here in San Antonio?  
 19 A. Yes.  
 11:17:21 20 Q. What was your position with Popular Tools?  
 21 A. I was an inside sales -- inside and outside  
 22 sales rep.  
 23 Q. What were some of your responsibilities as an  
 24 inside and outside sales representative at Popular  
 11:17:45 25 Tools?

7 (Pages 22 to 25)

Page 26

1 A. I had a certain territory of the country to --  
 2 to grow the business.  
 3 Q. And what kind of business was Popular Tools in?  
 4 A. They were a manufacturer of circular-tipped saw  
 11:17:59 5 blades.  
 6 Q. How many other sales reps did you work with at  
 7 Popular Tools?  
 8 A. One other.  
 9 Q. So just two of you within the entire company?  
 11:18:11 10 A. Well, that worked in that role, yes.  
 11 Q. One of your responsibilities was to grow your  
 12 sales business?  
 13 A. Right.  
 14 Q. Safe to say that to do that you'd need to  
 11:18:29 15 identify your customer needs and identify what products  
 16 Popular Tools had --  
 17 A. Uh-huh.  
 18 Q. -- to be able to market to them?  
 19 A. Well, I knew what products Popular Tools had.  
 11:18:39 20 Yes, it was to sell to customers that were already in a  
 21 book of business or a business that we already had  
 22 contacts with and to call on -- develop new accounts,  
 23 new customers.  
 24 Q. For the benefit of the ladies and gentlemen of  
 11:18:55 25 the jury, what's the difference between inside and

Page 27

1 outside sales?  
 2 A. Inside sales primarily is on the phone in the  
 3 roles that I was in. So it was receiving inbound phone  
 4 calls, making outbound phone calls, submitting  
 11:19:13 5 proposals, reviewing specifications, sometimes receiving  
 6 a request for quotes by fax or e-mail.  
 7 Q. Uh-huh. And outside sales?  
 8 A. And the outside sales was going out to visit  
 9 customers, going out to job sites, calling on new and  
 11:19:37 10 existing customers to, there again, grow or build a  
 11 business.  
 12 Q. When you were working for Popular Tools, were  
 13 you working to develop new customer relationships,  
 14 expand existing ones, or a little bit of both?  
 11:19:53 15 A. Both.  
 16 Q. Would you use the computer in your work for  
 17 Popular Tools?  
 18 A. Yes.  
 19 Q. What type of computer programs would you use in  
 11:20:05 20 that job?  
 21 A. The company provided software.  
 22 Q. Some type of sales tracking software?  
 23 A. Right. And some customer management system.  
 24 Q. Do you remember the name of the customer  
 11:20:21 25 management system?

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1 A. No.  
 2 Q. Approximately how long did you work at Popular  
 3 Tools?  
 4 A. Approximately a year.  
 11:20:33 5 Q. Why did you choose to leave that job?  
 6 A. There was issues with communications with  
 7 the -- the boss, owner.  
 8 Q. What kind of issues did you have?  
 9 A. They were mostly interpretation issues because  
 11:20:51 10 he was of Asian decent. So his language barriers.  
 11 Q. Is it your testimony that you voluntarily left  
 12 Popular Tools?  
 13 A. There was a dispute between us, and we agreed  
 14 to disagree and I left.  
 11:21:13 15 Q. So I guess my question is: Is that termination  
 16 characterized as voluntary or involuntary on your part?  
 17 A. It was involuntary.  
 18 Q. To the best of your knowledge, why did the  
 19 company indicate that they were involuntarily  
 11:21:37 20 terminating your employment?  
 21 A. We -- I didn't -- I don't have anything in  
 22 writing or he didn't -- the owner didn't tell me why he  
 23 let me go. He wasn't there. I just received notice  
 24 from an employee.  
 11:21:57 25 Q. What employee gave you the notice that your

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1 employment at Popular Tools was involuntarily  
 2 terminated?  
 3 A. I don't recall her name.  
 4 Q. Do you recall the substance of that  
 11:22:07 5 communication? Let me strike that.  
 6 Did -- It was a female employee, I take  
 7 it.  
 8 A. Yes, it was female.  
 9 Q. Did she notify you by e-mail, by phone or in  
 11:22:15 10 person that you were being terminated from employment?  
 11 A. In person.  
 12 Q. Do you recall her position at Popular Tools?  
 13 A. She's office admin. I'm not sure she had a  
 14 title.  
 11:22:27 15 Q. Okay. And what do you recall of the  
 16 conversation in which she told you that your employment  
 17 was involuntarily terminated?  
 18 A. She stated that the owner said that he didn't  
 19 want -- I no longer worked there and that -- so she had  
 11:22:45 20 a check.  
 21 Q. She just told you you no longer worked there?  
 22 A. Well, she told me the own -- the owner conveyed  
 23 to her that I no longer worked there.  
 24 Q. When she notified you that you just no longer  
 11:23:05 25 worked there, did that catch you by surprise, or did

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 you --</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. -- expect it?</p> <p>4 Okay. Where did you work prior to Popular</p> <p>11:23:25 5 Tools?</p> <p>6 <b>A. A company called Klinger Specialties.</b></p> <p>7 Q. And was Klinger Specialties also located in</p> <p>8 San Antonio?</p> <p>9 <b>A. Yes, sir.</b></p> <p>11:23:33 10 Q. What was your job title with Klinger</p> <p>11 Specialties?</p> <p>12 <b>A. Estimator.</b></p> <p>13 Q. And what type of industry is Klinger</p> <p>14 Specialties in?</p> <p>11:23:47 15 <b>A. Construction.</b></p> <p>16 Q. What would your job responsibilities have been</p> <p>17 as an estimator for Klinger Specialties?</p> <p>18 <b>A. I would review, plan and spec -- plans and</b></p> <p>19 <b>specifications for new construction or renovations and</b></p> <p>11:24:09 20 <b>provide proposals.</b></p> <p>21 Q. Did you have any background in work as an</p> <p>22 estimator prior to working for Klinger Specialties?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Where did you work previously as an estimator?</p> <p>11:24:31 25 <b>A. I didn't -- The title wasn't estimator</b></p>	<p style="text-align: right;">Page 32</p> <p>1 Fair enough.</p> <p>2 So that was a voluntary separation on your</p> <p>3 part then?</p> <p>4 <b>A. Yes.</b></p> <p>11:26:15 5 Q. Okay. You --</p> <p>6 <b>A. As far as I recall, that was -- that was a</b></p> <p>7 <b>straight commission job, and -- Yeah.</b></p> <p>8 Q. So on account of the pay structure and the</p> <p>9 nature of the work, I guess --</p> <p>11:26:25 10 <b>A. The nature of the work, right.</b></p> <p>11 Q. -- you decided to move on to Popular Tools</p> <p>12 after that?</p> <p>13 <b>A. After -- Yes.</b></p> <p>14 Q. Okay. Prior to Klinger, you said that you had</p> <p>11:26:33 15 worked at Oslin Nation; is that correct?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And you may have told me already, but I</p> <p>18 apologize if I forgot. What was your job title with</p> <p>19 Oslin Nation?</p> <p>11:26:45 20 <b>A. Manufacturer's representative.</b></p> <p>21 Q. You had some of the same obligations in terms</p> <p>22 of estimation and providing bids and following up on</p> <p>23 proposals, and things like that, at Oslin Nation?</p> <p>24 <b>A. That's correct.</b></p> <p>11:26:53 25 Q. What type of industry does Oslin Nation work</p>
<p style="text-align: right;">Page 31</p> <p>1 <b>previously. I was -- A more appropriate title was</b></p> <p>2 <b>manufacturer's representative, and that was for a</b></p> <p>3 <b>company named Oslin Nation.</b></p> <p>4 Q. Did you have any sales responsibilities as an</p> <p>11:24:53 5 estimator at Klinger Specialties?</p> <p>6 <b>A. There again, it was to review plans and</b></p> <p>7 <b>specifications and provide proposals, follow up on those</b></p> <p>8 <b>proposals to the bidding contractors and submit purchase</b></p> <p>9 <b>orders for the equipment, to follow up on the equipment</b></p> <p>11:25:15 10 <b>as far as delivery and requested schedule dates on job</b></p> <p>11 <b>sites and any field service that may be required.</b></p> <p>12 Q. Why did you leave Klinger Specialties? Why did</p> <p>13 you leave employment with Klinger Specialties?</p> <p>14 <b>A. Klinger, I didn't enjoy the work. Working for</b></p> <p>11:25:37 15 <b>Klinger Specialties, though, is still in the</b></p> <p>16 <b>construction business.</b></p> <p>17 <b>The business entailed what the -- What the</b></p> <p>18 <b>company sold were toilet room -- or bathroom partitions,</b></p> <p>19 <b>and -- for men's rooms and ladies' rooms, so it meant</b></p> <p>11:25:53 20 <b>going into the bathrooms and actually taking</b></p> <p>21 <b>measurements for new urinal partitions and bathroom</b></p> <p>22 <b>partitions, so I didn't -- I didn't find it pleasurable.</b></p> <p>23 Q. You just wanted to move on to something else --</p> <p>24 <b>A. I did.</b></p> <p>11:26:07 25 Q. -- at that point? Reasonable. Fair enough.</p>	<p style="text-align: right;">Page 33</p> <p>1 in?</p> <p>2 <b>A. HVAC, plumbing, institutional, municipality,</b></p> <p>3 <b>high-tech.</b></p> <p>4 Q. Are they located here in San Antonio also?</p> <p>11:27:09 5 <b>A. Yes.</b></p> <p>6 Q. Did you have any sales goals or quotas with</p> <p>7 Oslin Nation?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And did you have the responsibility to gain any</p> <p>11:27:23 10 particularized knowledge with regard to the products</p> <p>11 that Oslin Nation sold?</p> <p>12 <b>A. Please repeat the question for me, please.</b></p> <p>13 Q. Yeah. In terms of doing your duty or</p> <p>14 responsibilities -- performing your responsibilities for</p> <p>11:27:35 15 Oslin Nation, did you have specialized knowledge as to</p> <p>16 the products that they sold?</p> <p>17 <b>A. I was -- I had previous knowledge of the</b></p> <p>18 <b>products and also on-the-job knowledge and training.</b></p> <p>19 Q. Approximately how long did you work for Oslin</p> <p>11:27:49 20 Nation?</p> <p>21 <b>A. Approximately nine to ten years.</b></p> <p>22 Q. Is it correct that you failed to meet your</p> <p>23 sales goals for the last eight years you worked with</p> <p>24 Oslin Nation?</p> <p>11:28:03 25 <b>A. No.</b></p>

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1 Q. That would be an incorrect factual statement,  
2 is your testimony?  
3 **A. That is correct.**  
4 Q. Okay. Is it accurate to say that you were  
11:28:13 5 involuntarily terminated from your employment with Oslin  
6 Nation?  
7 **A. Yes.**  
8 Q. And do you recall what Oslin Nation told you  
9 was the reason you were being terminated?  
11:28:23 10 **A. They told me the sales goals for that  
11 particular year were not -- I did not achieve that sales  
12 goal for that year.**  
13 Q. As we just discussed, you disagree with them.  
14 That's correct?  
11:28:43 15 **A. That's correct.**  
16 Q. Did you believe that your termination from  
17 Oslin Nation was discriminatory?  
18 **A. Yes.**  
19 Q. And why do you believe that Oslin Nation  
11:28:57 20 discriminated against you?  
21 **A. Because of my national heritage.**  
22 Q. To the best of your rec -- recollection, had  
23 anyone at Oslin Nation made any comments to you that you  
24 felt used, you know, racial slurs or slurs about your  
11:29:17 25 national origin, or anything like that?

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1 **A. None that I recall.**  
2 Q. In fact, you filed a charge of discrimination  
3 against Oslin Nation with the EEOC, didn't you?  
4 **A. Yes, I did.**  
11:29:29 5 Q. And then subsequent to that charge, you  
6 actually filed a lawsuit against Oslin Nation, didn't  
7 you?  
8 **A. I did.**  
9 Q. And that lawsuit also alleged that you had  
11:29:39 10 suffered race or national origin discrimination, didn't  
11 it?  
12 **A. Yes.**  
13 Q. What was the outcome of your lawsuit against  
14 Oslin?  
11:29:53 15 **A. There was a settlement.**  
16 Q. Did you receive compensation as a result of  
17 that settlement?  
18 **A. Yes, I did.**  
19 Q. Do you recall how much compensation you  
11:30:03 20 received as a result of that?  
21 **A. Total compen -- Total compensation, including  
22 the lawyer's share, or just my share?**  
23 Q. Well, if you recall both, I'll take both.  
24 MR. CRANE: Was that a confidential  
11:30:15 25 settlement?

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1 THE WITNESS: It may have been, yes.  
2 That -- That being -- I'm not so sure I  
3 should -- I mean, you can get that from -- If you want  
4 that information, you can get it from my attorneys,  
11:30:33 5 Sylvan Lang and/or Ron Mendoza.  
6 Q. (By Mr. Barbour) Right. I've got you here --  
7 **A. Right. Okay.**  
8 Q. -- under oath at your deposition.  
9 **A. Well, I -- you know, I -- I guess I -- I could  
11:30:39 10 tell you, but I -- I feel more comfortable -- I can give  
11 you a range. You know, it's less than 100,000.**  
12 Q. Was it more than 50,000?  
13 **A. No.**  
14 Q. Was it more than 25,000?  
11:30:49 15 **A. Yes.**  
16 Q. Is that share to you, or is that total  
17 compensation?  
18 **A. Share.**  
19 Q. Was the total amount more or less than 50,000?  
11:31:03 20 **A. Less.**  
21 Q. You weren't deposed in that lawsuit. That's  
22 correct?  
23 **A. Correct.**  
24 Q. Would you describe your jobs with Klinger and  
11:31:25 25 Oslin as being somewhat sales-oriented?

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1 **A. They -- Yes, they are sales-oriented.**  
2 Q. And you began your employment with Oslin  
3 sometime in the mid to late 1990s; is that correct?  
4 **A. Correct.**  
11:31:39 5 Q. So is it safe to say that you had been -- or  
6 you have been in the sales industry for a couple of  
7 decades, give or take, at this point?  
8 **A. Yes.**  
9 Q. You're familiar with the sales industry?  
11:31:51 10 **A. Yes, sir.**  
11 Q. You consider yourself to be a good salesperson?  
12 **A. I do.**  
13 Q. Do you enjoy sales work?  
14 **A. I do.**  
11:31:59 15 Q. In your testimony, Mr. Gonzalez, what makes  
16 somebody a good salesperson?  
17 **A. Someone that can -- Someone with integrity,  
18 someone that can build rapport, someone that can be --  
19 can follow through and be successful with ever --  
11:32:31 20 whatever products and services I'm -- I'm providing or  
21 selling.**  
22 Q. Sure. It's important to have a good  
23 relationship with your customers, correct?  
24 **A. Yes.**  
11:32:41 25 Q. They need to know that they can rely on you,

10 (Pages 34 to 37)

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1 right?  
 2 **A. Absolutely.**  
 3 Q. And is it important that you not just be there  
 4 to actually sell them the product but to help them after  
 11:32:51 5 that sale as well?  
 6 **A. Yes, it's important to -- to build those**  
 7 **relationships.**  
 8 Q. All right. So if they have concerns and issues  
 9 after the sale is consummated --  
 11:33:01 10 **A. Uh-huh.**  
 11 Q. -- would you agree that it's important that you  
 12 be there to at least direct them to the right person to  
 13 get those --  
 14 **A. It's -- It --**  
 11:33:07 15 Q. -- concerns addressed?  
 16 **A. It's important that I do have the support, yes,**  
 17 **that I have support -- if I can't be there, that there's**  
 18 **other people that can be there to support me, the**  
 19 **people -- employers -- employees that work with me.**  
 11:33:21 20 **It wasn't -- I wasn't a single proprietor.**  
 21 **I did work with other employees in the -- in the same**  
 22 **role.**  
 23 Q. Okay. Did you find it was important to know  
 24 your customers' needs?  
 11:33:33 25 **A. Yes.**

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1 Q. Did you think it was important, obviously,  
 2 to -- to know what products your company was selling to  
 3 your customers?  
 4 **A. Very, very important.**  
 11:33:43 5 Q. And then you've got to identify how to make a  
 6 marriage between those needs and the products and  
 7 services that we're selling, right?  
 8 **A. Yes.**  
 9 Q. Do you consider sales to be a stressful job?  
 11:34:01 10 **A. It has stressful moments.**  
 11 Q. In what ways can the sales industry be  
 12 stressful?  
 13 **A. An example would be if I had several jobs**  
 14 **bidding at the same time, just putting together the bids**  
 11:34:23 15 **in time to -- before the bid -- bidding date --**  
 16 Q. Right.  
 17 **A. -- so the contractors have enough time or**  
 18 **customers have enough time to prepare their proposals.**  
 19 Q. So there could be a lot going on at any one  
 11:34:39 20 time --  
 21 **A. Sure.**  
 22 Q. -- correct?  
 23 And it's difficult to predict when that  
 24 would be the case; is that right?  
 11:34:45 25 **A. Yes, in some cases it is.**

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1 Q. I guess at some times it would be predictable.  
 2 **A. Yes, because there are -- there's bidding**  
 3 **schedules.**  
 4 Q. When were you hired at UPS, Mr. Gonzalez?  
 11:34:55 5 **A. You asked me that earlier.**  
 6 Q. All right. Was it August 2007?  
 7 **A. Yes, sir.**  
 8 Q. Do you remember your first job title with UPS?  
 9 **A. It was inside sales rep.**  
 11:35:07 10 Q. Did that position change at any point during  
 11 your employment with UPS?  
 12 **A. Yes.**  
 13 Q. What did it change to?  
 14 **A. The last job was a franchise sales consultant.**  
 11:35:21 15 Q. How does a franchise sales consultant differ  
 16 from an inside sales representative?  
 17 **A. It's more of a specialist role.**  
 18 Q. And how is it more specialized?  
 19 **A. It was dedicated to a group of franchisees, a**  
 11:35:45 20 **UPS Store.**  
 21 Q. So you were supporting individual UPS Stores?  
 22 **A. Yes.**  
 23 Q. Those UPS Stores were not themselves owned by  
 24 UPS; is that correct?  
 11:35:59 25 **A. Some were.**

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1 Q. And some were not?  
 2 **A. And some were not.**  
 3 Q. So you would have been supporting outside  
 4 companies who happened to be UPS stores. Is that a  
 11:36:09 5 correct statement?  
 6 **A. I wouldn't word it that way.**  
 7 Q. Okay. How would you word it?  
 8 **A. There are independently owned stores, and there**  
 9 **are also corporate-owned stores.**  
 11:36:27 10 Q. You represented a mix of both; is that correct?  
 11 **A. Yes.**  
 12 Q. Was franchise sales consultant the position  
 13 that you recall holding until your separation from  
 14 employment?  
 11:36:43 15 **A. Yes.**  
 16 Q. Did you hold any other positions during your  
 17 employment with UPS other than inside sales rep and  
 18 franchise sales consultant?  
 19 **A. I worked in -- worked in the growth group.**  
 11:36:59 20 Q. What's the growth group?  
 21 **A. Growth group is a pool of new sales reps or**  
 22 **new -- new represent -- when I say "new sales reps," new**  
 23 **ISRs, inside sales reps, that have just been trained**  
 24 **that go to the growth group before they are assigned a**  
 11:37:21 25 **territory.**

11 (Pages 38 to 41)

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1 Q. What kind of work does the growth group do if  
2 it's different than -- different than the day-to-day  
3 work of an inside sales rep?  
4 **A. There's different roles that they do. Some**  
11:37:37 5 **depends on the -- depends on the project. There was a**  
6 **couple of projects that I worked on.**  
7 **One was, I would receive inbound phone**  
8 **calls requesting information on technology, on UPS**  
9 **services, and just que -- basic questions on the various**  
11:38:01 10 **domestic and international services of the small package**  
11 **division.**  
12 Q. What was your job title when you were in the  
13 growth group?  
14 **A. I was still an ISR.**  
11:38:11 15 Q. And that growth group was at the San Antonio  
16 facility on Summit -- Summit Parkway?  
17 **A. 5315 Summit Parkway.**  
18 Q. Approximately how many people do you recall  
19 being in the growth group?  
11:38:23 20 **A. It ranged from -- It could -- could range**  
21 **anywhere from 20 to -- to 10, and then there may have**  
22 **even been more.**  
23 Q. Do you recall the approximate dates in which  
24 you worked in the growth group?  
11:38:37 25 **A. No.**

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1 Q. Other than your ISR job in the growth group,  
2 your beginning ISR job and your franchise sales  
3 consultant job, did you hold any other positions with  
4 UPS?  
11:38:55 5 **A. No. That's all I recall right now.**  
6 Q. Okay. I want to ask you some respon --  
7 questions about your responsibilities as a franchise  
8 sales consultant.  
9 And -- And have you ever heard the term  
11:39:07 10 "enterprise inside sales representative"?  
11 **A. That -- Yes, I've heard of it.**  
12 Q. Okay. To the best of your recollection and  
13 understanding, is an enterprise sales rep the same as a  
14 franchise sales consultant?  
11:39:21 15 **A. When I was working there, no.**  
16 Q. When you were working there, what do you recall  
17 an enterprise sales representative doing?  
18 **A. Enterprise, when I first started working there,**  
19 **was -- it may have been considered a specialist at the**  
11:39:37 20 **time. It was a non-commissioned position, or a non-SIP,**  
21 **as they call it, so they were on a -- on a salary. They**  
22 **did not receive a commission or quarterly bonuses.**  
23 Q. Did you ever -- Were you ever paid on a  
24 commission basis during your work at UPS?  
11:39:59 25 **A. Yes.**

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1 Q. Were you paid on a commission basis during your  
2 work as a franchise sales consultant?  
3 **A. No.**  
4 Q. That was just an hourly job, wasn't it?  
11:40:09 5 **A. Yes.**  
6 Q. What were your hours of -- your average and  
7 standard hours of work as a franchise sales consultant?  
8 **A. 8:00 to 5:00.**  
9 Q. Okay. Monday through Friday?  
11:40:29 10 **A. Yes.**  
11 Q. And you had customer accounts assigned to you;  
12 is that correct?  
13 **A. Yes.**  
14 Q. And would each of those accounts have been a  
11:40:39 15 separate UPS Store?  
16 **A. Yes.**  
17 Q. Would you have any non-UPS Store customers  
18 assigned to you during your employment as a franchise  
19 sales consultant?  
11:40:47 20 **A. Yes.**  
21 Q. What types of other customers would be assigned  
22 to you as a franchise sales consultant?  
23 **A. There were other stores that had not been**  
24 **completely transitioned over to a UPS Store from --**  
11:41:01 25 Q. What kind -- I --

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1 **A. -- from a --**  
2 Q. Go ahead.  
3 **A. The UPS -- UPS purchased Mail Boxes Etc., so**  
4 **there was still some stores under that name that I**  
11:41:19 5 **called on.**  
6 Q. Those would be pla -- places of business like  
7 the UPS Store but which might not have had their names  
8 formally transitioned over?  
9 **A. Yes.**  
11:41:29 10 Q. Okay. Did you have any private businesses or  
11 non-UPS Store type businesses assigned to you as a  
12 franchise sales consultant?  
13 **A. No.**  
14 Q. Approximately how many customers were assigned  
11:41:43 15 to you during your work as a franchise sales consultant?  
16 **A. I'm going to say close to a thousand.**  
17 Q. Would it be fair to say that you would have had  
18 somewhere between 1,200 and 1,500 customers assigned to  
19 you during your work at UPS?  
11:42:05 20 **A. Yeah, approximately.**  
21 Q. So talk me through your average day as a  
22 franchise sales consultant.  
23 What type of work would you do for these  
24 1,200 to 1,500 clients?  
11:42:21 25 **A. My -- My work entailed making sure that each**

12 (Pages 42 to 45)



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1 store was aware of all of our services, domestic and  
 2 international, as well as LTL freight, made sure that  
 3 they are not only aware but they used our technology,  
 4 our Internet-based technology, and made sure that they  
 11:42:55 5 had the contacts that they needed should they have an  
 6 issue.  
 7 Q. You say contacts they needed if they had an  
 8 issue. Would these be contacts internally within UPS?  
 9 A. Yes.  
 11:43:09 10 Q. Was one of your responsibilities occasionally  
 11 receiving complaints or concerns from one of these 1,200  
 12 to 1,500 customers --  
 13 A. Yes.  
 14 Q. -- about their work with UPS?  
 11:43:21 15 A. Yes.  
 16 Q. Yeah. And would it be your job to timely and  
 17 responsively get back with that person and do what you  
 18 can to point them to the right person to get those  
 19 complaints addressed?  
 11:43:33 20 A. Yeah. If I couldn't do it, they had phone  
 21 numbers or other contacts that they could call for  
 22 support.  
 23 Q. Did you have any goals in terms of how quickly  
 24 you were expected to respond to client or customer  
 11:43:47 25 concerns?

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1 A. Typically, they were the same day or next day,  
 2 depending on the time of the concern.  
 3 Q. Was there a particular time of the day at which  
 4 a concern might be received --  
 11:43:59 5 A. No.  
 6 Q. -- in which you would be expected to respond  
 7 the same day?  
 8 A. Not that I'm aware of.  
 9 Q. Did you do your best to try and respond timely  
 11:44:21 10 to those customer complaints and concerns that you would  
 11 receive?  
 12 A. Yes.  
 13 Q. Were your 1,200 to 1,500 customers and accounts  
 14 shared with any other franchise sales consultants?  
 11:44:31 15 A. On occasion, yes.  
 16 Q. When you say "on occasion," what does that  
 17 mean?  
 18 A. That means when -- if another franchise sales  
 19 consultant was on vacation or out on a leave or for  
 11:44:45 20 whatever reason, I would cover -- as an example, I would  
 21 cover their -- their e-mails and phone calls, voice  
 22 messages.  
 23 Q. Right. We wouldn't just ignore those  
 24 customers while --  
 11:44:57 25 A. No.

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1 Q. -- while their consultant was out --  
 2 A. No.  
 3 Q. -- on vacation, I guess.  
 4 A. No.  
 11:45:03 5 Q. Other than covering for people who were either  
 6 on leave or on vacation, did anyone else ever cover your  
 7 accounts otherwise?  
 8 A. On a full-time basis --  
 9 Q. Yes.  
 11:45:13 10 A. -- or a part-time or --  
 11 Q. At all --  
 12 A. -- at any time --  
 13 Q. -- to the best of your recollection.  
 14 A. -- did...  
 11:45:17 15 Yes. If I was out on leave, they are  
 16 supposed to -- somebody is supposed to cover my phone  
 17 calls and e-mails.  
 18 Q. Okay. And -- And other than you were out on  
 19 leave, is -- is my question.  
 11:45:29 20 A. Uh-huh.  
 21 Q. Other than when you're out on vacation or  
 22 leave, are you solely responsible for those 12- or  
 23 1,500 customers that are assigned to you?  
 24 MR. CRANE: Objection; foundation.  
 11:45:39 25 Q. (By Mr. Barbour) To the best of your knowledge.

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1 A. Well, the -- the customers have various  
 2 departments that they can call besides me. For example,  
 3 if an issue has to do with billing, there's a billing  
 4 phone number that they can call. So instead of asking  
 11:46:05 5 me to handle the billing issue, they -- they know they  
 6 can call the billing department to get help and get  
 7 direct assistance there.  
 8 Likewise, with operations, if there's an  
 9 operations issue, they can either call or e-mail me.  
 11:46:19 10 I'll forward them the information. If -- If I -- If I  
 11 can access it through my programs, I'll give them the  
 12 answer. If I cannot, they should have a number that  
 13 they can call locally to speak to an operations  
 14 personnel to support them.  
 11:46:35 15 Q. My question was specific to the inside sales  
 16 realm --  
 17 A. Uh-huh.  
 18 Q. -- department.  
 19 I understand that there are many different  
 11:46:45 20 departments and divisions of UPS.  
 21 A. Uh-huh.  
 22 Q. Within the inside sales division, would other  
 23 sales reps have been assigned to your accounts other  
 24 than when you were on leave or vacation, to the best of  
 11:46:55 25 your knowledge?

13 (Pages 46 to 49)

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1 A. No. Each -- Each franchise consultant had  
 2 their own what they call "book of business." They were  
 3 assigned a certain territory which had a certain number  
 4 of accounts.  
 11:47:11 5 Q. Did you consider it important to culture,  
 6 develop and maintain those customer relationships?  
 7 A. Yes.  
 8 Q. The franchise sales consultant position was a  
 9 full-time job, wasn't it?  
 11:47:27 10 A. Yes.  
 11 Q. Eight hours a day, is what you said, correct?  
 12 A. Yes.  
 13 Q. And is the same true for the inside sales rep  
 14 position? Was that also a full-time job?  
 11:47:37 15 A. Yes.  
 16 Q. Who was your supervisor as of the time you last  
 17 went out on leave in April 2013?  
 18 A. Grace Eason.  
 19 Q. How long had Grace Eason been your supervisor,  
 11:48:01 20 to the best you can remember?  
 21 A. Oh, I'd say one to two years.  
 22 Q. And who was Grace Eason's immediate supervisor  
 23 above her?  
 24 A. Kris Johnson.  
 11:48:17 25 Q. In your day-to-day work, how often would you

Page 52

1 position?  
 2 A. Yes.  
 3 Q. What would those differences be?  
 4 A. The inside sales rep position entailed putting  
 11:49:55 5 together incentive bid agreements, whether they were  
 6 template-type bids or custom bids. They also had a --  
 7 They were a commissioned-based job or a bonus-pay job.  
 8 They may have had more -- I believe they had more  
 9 accounts.  
 11:50:25 10 Q. The ISR had more accounts than the franchise  
 11 sales consultant?  
 12 A. Yes.  
 13 Q. Approximately how many accounts would an ISR  
 14 have, to the best of your recollection?  
 11:50:33 15 A. They can have, in my experience, close to  
 16 3,000.  
 17 Q. As a franchise sales -- excuse me -- franchise  
 18 sales consultant, what type of computer programs did you  
 19 use in your day-to-day work?  
 11:51:05 20 A. Used the customer management system called  
 21 TEAMS, Total Enterprise Account Management System.  
 22 Another system was the mainframe that had all my  
 23 customers, including the franchise -- franchise stores,  
 24 in it.  
 11:51:29 25 Q. Do you remember the name of that mainframe

Page 51

1 interact with Kris Johnson?  
 2 A. Wasn't a day-to-day.  
 3 Q. Most of your interactions would be with  
 4 Ms. Eason?  
 11:48:37 5 A. Yes.  
 6 Q. How many franchise sales consultants were  
 7 located in the San Antonio inside sales facility?  
 8 A. I believe there were six.  
 9 Q. You would have been one of those six?  
 11:48:53 10 A. Yes.  
 11 Q. Approximately how many inside sales  
 12 representatives worked in the San Antonio facility, to  
 13 the best of your recollection?  
 14 A. Over 200.  
 11:49:05 15 Q. And earlier you mentioned that franchise sales  
 16 consultants worked primarily with UPS Stores or  
 17 equivalents to that; is -- is that correct?  
 18 A. Not -- Not the way you worded it.  
 19 Q. Okay. How did I mis-word it?  
 11:49:29 20 A. Well, the -- we worked with the UPS Store  
 21 franchisees and their staff and then the few stores that  
 22 had not transitioned over to the UPS Stores.  
 23 Q. Okay. Was there a substantial difference in  
 24 terms of the day-to-day responsibilities between an  
 11:49:45 25 inside sales rep and a franchise sales consultant

Page 53

1 system?  
 2 A. No, I don't offhand.  
 3 Q. Did you use a program called Customer Volume  
 4 Behavior Analysis Tracking System?  
 11:51:41 5 A. Yes, I did.  
 6 Q. Is that different than the mainframe system?  
 7 A. Yes.  
 8 Q. Had you used any of these programs prior to  
 9 your work with UPS?  
 11:51:49 10 A. I had used a customer management system, yes.  
 11 Q. That same customer management system or --  
 12 A. Not --  
 13 Q. -- something similar to it?  
 14 A. Not TEAMS.  
 11:51:59 15 Q. Did you have to receive any training on UPS  
 16 systems?  
 17 A. Yes.  
 18 Q. Approximately how long did that training last?  
 19 Do you recall?  
 11:52:07 20 A. They varied from beginning-the-job training,  
 21 which was -- could be anywhere from four to eight weeks  
 22 before you're assigned a territory.  
 23 Q. And part of that training would be covering  
 24 UPS' processes and --  
 11:52:27 25 A. Right. TEAMS --

14 (Pages 50 to 53)



Page 54

1 Q. -- programs, right?

2 A. -- CVBAT.

3 **There was also several technology**

4 **programs. There was bidding programs. There was**

11:52:43 5 **Internet-based. There was soft -- I'm sorry --**

6 **software, as well. Worldship was another one that's**

7 **Internet and software-based.**

8 Q. That four to eight weeks of training, did UPS

9 also train you on the products and services that it

11:53:03 10 offered to its customers and clients?

11 A. Yes.

12 Q. Were you acquainted with those products and

13 services prior to working with UPS?

14 A. **Not UPS products or services.**

11:53:13 15 Q. Would it have been possible for you to perform

16 your franchise sales consultant job without using these

17 computer programs that we just discussed?

18 A. **Possible.**

19 Q. And how would you --

11:53:29 20 A. **Not likely, but --**

21 MS. KILGORE: Objection; lack of

22 foundation.

23 MR. BARBOUR: Who's defending the

24 deposition?

11:53:35 25 MR. CRANE: I am.

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1 MS. KILGORE: Sorry, Tom.

2 MR. BARBOUR: Okay.

3 MR. CRANE: It's okay.

4 MR. BARBOUR: Just making sure we keep it

11:53:41 5 straight forward moving forward.

6 MR. CRANE: You can handle two, can't you?

7 MR. BARBOUR: I don't know if I can handle

8 one.

9 Q. (By Mr. Barbour) I apologize, Mr. Gonzalez.

11:53:45 10 What was your answer to that?

11 My question was: Would it be possible for

12 you to perform, to the best of your knowledge, your

13 franchise sales consultant job without using these

14 computer programs?

11:53:57 15 A. **Without the use of those specific programs, I**

16 **would say no. They're proprietary.**

17 Q. One of your essential job functions was to

18 enter relevant data into U -- UPS' account management

19 system, wasn't it?

11:54:23 20 A. Yes.

21 Q. What type of hardware would you use to enter

22 that data into these account management systems?

23 A. **I don't know what the hardware was. It was --**

24 Q. Would you use a mouse --

11:54:35 25 A. **It was --**

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1 Q. -- and a keyboard and things like this?

2 A. Yes.

3 Q. And your job with UPS required pretty heavy

4 computer and phone use, didn't it?

11:54:47 5 A. Yes. Now you can define "heavy" for me.

6 Q. Well, how would you define -- Let -- Let me --

7 Well, I'll ask you this way: Approximately how many

8 hours a day would you spend on the computer during your

9 work as a franchise sales consultant?

11:55:05 10 A. **It's hard to say. It's hard to say, because it**

11 **depends on how much time is spent on the phone.**

12 Q. Would it vary?

13 A. Yes.

14 Q. Would it vary depending upon the customer's

11:55:19 15 needs and whatever was happening on that particular day?

16 A. **Absolutely.**

17 Q. Was it unpredictable in terms of how much time

18 you would spend on the computer or phone on any given

19 day?

11:55:29 20 A. **Yes, very unpredictable.**

21 Q. Did UPS have any target metrics for you in

22 terms of how long you were supposed to spend on the

23 phone on any given day?

24 A. Yes.

11:55:43 25 Q. And what were those target metrics in terms of

Page 57

1 phone time?

2 A. **The most recent metric that I recall was about**

3 **two and a half hours a day.**

4 Q. So it would have been two and a half hours on

11:55:55 5 the phone with our customers every day; is that correct?

6 A. **That's correct.**

7 Q. And that was a baseline; sometimes you could be

8 expected to spend more time on the phone with these

9 customers, right?

11:56:07 10 A. **That was the baseline. There's always -- I**

11 **mean, if you can get more, great, but it depends on the**

12 **type of call. If it was a service call that's not truly**

13 **a valuable call, you spend a lot of time on service.**

14 Q. But your goal with these -- when you -- When

11:56:27 15 you say "a service call," was this a call where you're

16 not selling products and services but you're trying to

17 help a customer with existing services that they're

18 using?

19 A. **Right. If there's an -- If they have an issue**

11:56:41 20 **that they've had to escalate because they weren't**

21 **getting the resolution they wanted, I -- I was an**

22 **escalation point. So sometimes I would have to**

23 **conference in other personnel to resolve an issue. So**

24 **it wasn't a direct sales call, so to speak --**

11:56:59 25 Q. Right.

15 (Pages 54 to 57)

Page 58

1 **A. -- but it did take time.**  
 2 Q. I think we kind of touched on that earlier,  
 3 where one of your responsibilities wasn't just selling  
 4 new products and services but maintaining the --  
 11:57:03 5 **A. Right.**  
 6 Q. -- relationships --  
 7 **A. It's still part of the --**  
 8 Q. -- that you already had.  
 9 **A. -- relationship, yes.**  
 11:57:09 10 Q. And it would be fair to say that your job as an  
 11 inside sales rep was to make sure that in those  
 12 situations the customer was put in touch with somebody  
 13 who could actually solve the concerns that they had; is  
 14 that correct?  
 11:57:21 15 **A. Correct.**  
 16 Q. Your job with UPS required you to -- to use  
 17 analytical skills, didn't it?  
 18 **A. Yes.**  
 19 Q. And it required you to use time-management  
 11:57:33 20 skills, didn't it?  
 21 **A. Yes.**  
 22 Q. And the computer programs that we discussed  
 23 were necessary for that critical analysis and to support  
 24 your job functions, weren't they?  
 11:57:43 25 **A. Yes.**

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1 Q. And it was an essential function of your UPS  
 2 position to have the cognitive ability to follow  
 3 directions and routines, wasn't it?  
 4 MR. CRANE: Objection; calls for a legal  
 11:57:55 5 conclusion.  
 6 Q. (By Mr. Barbour) Did you consider it to be an  
 7 essential function of your job with UPS to have the  
 8 cognitive ability to follow directions and routines,  
 9 Mr. Gonzalez?  
 11:58:07 10 **A. Please repeat the question.**  
 11 Q. Yes, sir. I'm not asking you to use any legal  
 12 terminology. Just to the --  
 13 **A. No, I know.**  
 14 Q. -- to the best of -- to the best of however you  
 11:58:19 15 would use these words, did you consider it to be an  
 16 essential job function of your job with UPS to have the  
 17 cognitive ability to follow directions and routines?  
 18 **A. I'm not a psychologist. My understanding of my**  
 19 **essential job functions were to assess the customers'**  
 11:58:47 20 **needs and provide them the solutions that they required.**  
 21 **(Exhibit 1 marked.)**  
 22 Q. (By Mr. Barbour) I will hand you what I'm  
 23 marking as Exhibit 1 to your deposition, Mr. Gonzalez.  
 24 MR. CRANE: Thank you.  
 11:59:15 25 Q. (By Mr. Barbour) And take a second to review

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1 Exhibit 1, please, and let me know when you've had a  
 2 chance to do so.  
 3 **A. (Reviewing document.) Okay.**  
 4 Q. All right. Do you recognize what we've marked  
 12:02:53 5 as Exhibit 1, Mr. Gonzalez?  
 6 **A. Yes.**  
 7 Q. And what is Exhibit 1?  
 8 **A. It's a letter addressed to the EEOC.**  
 9 Q. Is it a letter from you to the EEOC?  
 12:03:03 10 **A. Yes, it is.**  
 11 Q. And did you submit this letter in conjunction  
 12 with the charge of discrimination that you had filed  
 13 against UPS?  
 14 **A. I did.**  
 12:03:11 15 Q. If you look on the bottom right-hand corner of  
 16 the pages, do you see a number that begins with "D,"  
 17 slash, "RG," slash, then some numbers?  
 18 **A. Yes, sir.**  
 19 Q. Okay. Can you turn to the page that's  
 12:03:25 20 D-RG-932?  
 21 **A. Okay.**  
 22 Q. Is that your signature --  
 23 **A. Yes.**  
 24 Q. -- on Page D-RG-932?  
 12:03:39 25 THE WITNESS: Bless you.

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1 Yes. Yes, sir.  
 2 Q. (By Mr. Barbour) When you submitted this to the  
 3 EEOC, were you trying to be as truthful as possible with  
 4 them?  
 12:03:47 5 **A. Yes.**  
 6 Q. And if I read this correctly, you submitted  
 7 this on February 20th, 2015, didn't you?  
 8 **A. Yes.**  
 9 Q. That was less than a year after your  
 12:03:55 10 termination from UPS, correct?  
 11 **A. Correct.**  
 12 Q. I'm looking at the first page of Exhibit 1,  
 13 Mr. Gonzalez. And towards the bottom, do you write to  
 14 the EEOC, "My role as an inside sales representative  
 12:04:11 15 (ISR) for the small package division was to help for  
 16 approximately five years and as an enterprise account  
 17 representative for the UPS Stores for over one year"?  
 18 Do you -- Do you see where I've read that?  
 19 **A. Yes, I do.**  
 12:04:27 20 Q. Okay. When you refer to the enterprise account  
 21 representative position, is that another way to say  
 22 franchise sales consultant?  
 23 **A. Earlier I stated enterprise account**  
 24 **representative, when I first started there, was a -- a**  
 12:04:47 25 **role that was a salaried role, which I still believe to**

16 (Pages 58 to 61)

Page 62

1 be correct. There...

2 Q. And you also told me that you never held an

3 enterprise sales representative position. Is that

4 correct?

12:05:03 5 A. Well, yes, I did say that; however, there's

6 more to it -- to the job description, because I know

7 there had been some changes to the -- the job

8 description itself.

9 My understanding was, as an ISR -- the

12:05:17 10 ISRs, many of them transition to be an enterprise

11 account representative, but that was an internal UPS

12 change of titles, if I recall correctly.

13 Q. Okay. But when you write and you reference

14 your role as an inside sales representative for

12:05:39 15 approximately five years, does that re -- match your

16 recollection as to how long you held the ISR job?

17 A. Yes.

18 Q. Okay. When you say that you worked in a

19 position for the UPS Stores for over one year, does that

12:05:51 20 match your recollection as to how long you performed

21 what you called the franchise sales consultant job?

22 A. Yes.

23 Q. So when you're writing to the EEOC on

24 February 20th, 2015 and you refer to this enterprise

12:06:05 25 account representative position, are you, in fact,

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1 being a job description for a franchise sales consultant

2 because it's a new position.

3 Q. Okay. When you say you weren't aware of there

4 being a job description, you mean a written job

12:07:21 5 description?

6 A. For the franchise sales consultant, yes.

7 Q. All right. But -- But you're familiar with

8 what that job actually entails, because you did it,

9 right?

12:07:27 10 A. Yes.

11 Q. Okay. And so I'm not concerned about whether

12 there's a written job description or not. I'm just

13 asking what your understanding of those responsibilities

14 was.

12:07:37 15 A. Okay.

16 Q. Okay. So you write that you worked as an ISR

17 and then in a position supporting the UPS Stores for

18 over one year, and you say, "I performed the essential

19 job functions." Flip over to the next page.

12:07:49 20 A. Okay.

21 Q. And you see all of these dashes here, correct?

22 A. Yes.

23 Q. Okay. I'm looking about midway down Page 929.

24 And did you tell the EEOC that one of your

12:08:01 25 responsibilities in your position supporting UPS Stores

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1 referring to that franchise sales consultant job that

2 you had?

3 A. If I -- If I may rephrase, the first five years

4 I worked as -- as an ISR, and the last -- my last title

12:06:23 5 before I was terminated was franchise sales consultant.

6 Q. Okay. When you write to the EEOC, the very

7 next sentence after what I read previously said, "I

8 performed the essential job functions."

9 You see that?

12:06:39 10 A. Yes.

11 Q. Okay. We'll get to that in a second. But

12 you're describing your essential job functions for --

13 for two positions you had held with UPS, correct?

14 A. Yes.

12:06:47 15 Q. The ISR job, obviously.

16 A. Uh-huh.

17 Q. And then this other position that is this

18 enterprise account representative position.

19 A. Yes.

12:06:55 20 Q. My question is: When you're describing the

21 essential job functions for the enterprise account

22 representative position, is that really the franchise

23 sales consultant job that we've spent so long talking

24 about?

12:07:05 25 A. No. The ISR -- I -- I wasn't aware of there

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1 was to have the cognitive ability to follow directions

2 and routines?

3 A. Yes.

4 Q. And then you say that in your role supporting

12:08:17 5 the UPS Stores you need to have that cognitive ability.

6 Are we talking about your franchise sales

7 consultant job?

8 A. Yes.

9 Q. Okay. Did you also tell the EEOC that one of

12:08:29 10 the essential functions of your franchise sales

11 consultant job was to have the cognitive ability to work

12 independently with appropriate judgment?

13 A. Yes.

14 Q. Did you tell the EEOC that one of the essential

12:08:43 15 functions of your franchise sales consultant job was to

16 have the cognitive ability to concentrate, memorize and

17 recall?

18 A. Are you reading from a specific page?

19 Q. Yes, sir. I'm still on Page 929.

12:08:57 20 A. Okay.

21 Q. And I'm still under that paragraph that begins

22 with "demonstrate cognitive ability to" --

23 A. Okay.

24 Q. I apologize if I didn't direct you there.

12:09:07 25 And I think my question was: Did you tell

17 (Pages 62 to 65)

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1 the EEOC that one of the essential functions of your  
 2 franchise sales consultant job was to have the cognitive  
 3 ability to concentrate, memorize and recall?  
 4 **A. Yes.**  
 12:09:19 5 Q. And did you tell the EEOC that one of the  
 6 essential functions of your franchise sales consultant  
 7 job was to have the cognitive ability to identify  
 8 logical connections and determine the sequence of  
 9 response?  
 12:09:33 10 **A. Yes.**  
 11 Q. And did you tell the EEOC that one of the  
 12 essential functions of your franchise sales consultant  
 13 job was to have the cognitive ability to process two to  
 14 three steps ahead?  
 12:09:45 15 **A. Yes, I did.**  
 16 Q. Did you ever have to do any research on your  
 17 customers in your day-to-day work as a franchise --  
 18 **A. Yes.**  
 19 Q. -- sales consultant?  
 12:09:57 20 **A. Yes.**  
 21 Q. Would this be Internet research, or what tools  
 22 would you use to do that research?  
 23 **A. I would use the UPS programs that we had.**  
 24 Q. These would be these computer programs?  
 12:10:09 25 **A. Yes.**

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1 Q. So UPS would provide you some type of  
 2 information about the size and structure of the customer  
 3 and how they might be able to use our products and  
 4 services, right?  
 12:10:19 5 **A. Right. CVBAT is one. The billing is another.**  
 6 Q. And you were primarily working with customers  
 7 whose transportation spend was between 10,000 and  
 8 \$30,000 a year; is that correct?  
 9 **A. Repeat your question.**  
 12:10:35 10 Q. Did -- Were -- Were you assigned -- When you  
 11 were assigned customers, was it customers whose average  
 12 spend on logistics and transportation spending was  
 13 within a certain amount each year, to the best of your  
 14 knowledge?  
 12:10:49 15 **A. For the franchise?**  
 16 Q. Yes.  
 17 **A. No.**  
 18 Q. Okay. So it would have been any UPS Stores,  
 19 regardless of what their average spend would be then?  
 12:10:57 20 **A. Correct.**  
 21 Q. Okay. Did the ISR job have a range?  
 22 **A. Yes. The ISR's range was, I believe, up to**  
 23 **\$50,000.**  
 24 Q. When we got beyond \$50,000 a year, do you know  
 12:11:11 25 where those accounts would go at that point if they were

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1 no longer kept by an ISR?  
 2 **A. They were kept by the enterprise account rep.**  
 3 **Those are the reps that, when I first started, they were**  
 4 **assigned to accounts that had a revenue greater than**  
 12:11:27 5 **50,000 a year.**  
 6 Q. Did you consider it to be one of your  
 7 responsibilities to develop sales strategy for your  
 8 clients, as a franchise sales consultant?  
 9 **A. Yes.**  
 12:11:37 10 Q. And how would you go about developing a sales  
 11 strategy for an individual client?  
 12 **A. Consultative conversations with them, seek out**  
 13 **what their problems are, provide solutions based on**  
 14 **that.**  
 12:11:51 15 Q. And that would require, you know, some  
 16 cognitive ability to identify --  
 17 **A. Yes.**  
 18 Q. -- problems and solutions, right?  
 19 **A. Yes.**  
 12:11:59 20 Q. Was there a certain -- We discussed there was a  
 21 set amount of time you needed to spend on the phone each  
 22 day.  
 23 Was there a certain number of calls you  
 24 needed to make each day, according to company metrics?  
 12:12:23 25 **A. Yes. They like to see at least -- well,**

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1 **approximately 15, as far as I recall.**  
 2 Q. 15 calls each day?  
 3 **A. Yes.**  
 4 Q. Were you required to enter your data for each  
 12:12:37 5 customer and your work that happened that day on a daily  
 6 basis?  
 7 **A. Yes.**  
 8 Q. Were their specific reports that you were  
 9 required to submit?  
 12:12:43 10 **A. On occasion, yes.**  
 11 Q. How often would those reports have to be  
 12 submitted? On a daily or a less frequent basis?  
 13 **A. Less frequent.**  
 14 Q. How often would you have to submit those  
 12:12:57 15 reports?  
 16 **A. It was upon request, and it's -- depended on --**  
 17 **on projects.**  
 18 Q. Okay. So not within any -- it wasn't a daily  
 19 or weekly thing; it was kind of on an as-needed basis?  
 12:13:13 20 **A. Yes.**  
 21 Q. Okay. Would you have to be responsible for  
 22 monitoring your clients' com -- compliance with existing  
 23 contracts?  
 24 **A. Yes.**  
 12:13:21 25 Q. And would you be responsible for keeping and

18 (Pages 66 to 69)

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1 maintaining regular schedules of all phone discussions  
 2 with your customers?  
 3 **A. Yes.**  
 4 Q. And would that happen on a daily, weekly and  
 12:13:41 5 monthly basis?  
 6 **A. Daily, weekly and monthly.**  
 7 Q. Did you receive training on the pricing of UPS  
 8 services and products?  
 9 **A. Yes.**  
 12:14:07 10 Q. And would you have to rely on that training and  
 11 knowledge in your day-to-day work in selling those  
 12 products and services to our customers?  
 13 **A. Not in the franchise consultant role.**  
 14 Q. Would you have to do that in the ISR job?  
 12:14:21 15 **A. Yes.**  
 16 Q. How was a franchise sales consultant job  
 17 different that you wouldn't have to rely on that  
 18 training in your day-to-day work?  
 19 **A. The pricing was already established.**  
 12:14:31 20 Q. Because they're UPS Stores?  
 21 **A. Yes.**  
 22 Q. Okay. Do you recall your last hourly wage with  
 23 UPS prior to your termination?  
 24 **A. Approximately \$23.**  
 12:14:57 25 Q. If I said \$22.95 is what's reflected on the

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1 we are off the record.  
 2 (Off the record.)  
 3 THE VIDEOGRAPHER: The time is 1:04 p.m.,  
 4 and we are on the record.  
 13:04:05 5 Q. (By Mr. Barbour) Mr. Gonzalez, are you ready to  
 6 proceed, sir?  
 7 **A. Yes, I am.**  
 8 Q. Do you have any answers so far that you'd like  
 9 to change?  
 13:04:11 10 **A. Yes. There is one regarding my employment that**  
 11 **I may not have been -- that I just wanted to review. It**  
 12 **was with -- The employer was Klinger Specialties.**  
 13 Q. Uh-huh.  
 14 **A. And I don't recall exactly if I was -- it was a**  
 13:04:27 15 **company layoff or how the end of that job ended, because**  
 16 **I -- I know I was looking for another job, and I think**  
 17 **they -- they had a company-wide layoff.**  
 18 Q. Okay. Let me ask you this: Did you  
 19 voluntarily resign from Klinger Specialties?  
 13:04:45 20 **A. I recall it being a layoff, so it -- that would**  
 21 **have been involuntary.**  
 22 Q. Do you recall how many people were laid off?  
 23 **A. At the time, it -- Company-wide, no. In my**  
 24 **office, it was me.**  
 13:04:57 25 Q. So you were the only person laid off?

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1 records, does that sound more or less correct to you?  
 2 **A. That sounds very close.**  
 3 **Am I speaking loud enough?**  
 4 Q. I think so.  
 12:15:13 5 **A. Okay.**  
 6 MR. BARBOUR: Are we speaking loud enough?  
 7 THE WITNESS: Okay.  
 8 Q. (By Mr. Barbour) Is now a good time to take a  
 9 break, Mr. Gonzalez?  
 12:15:19 10 **A. I'm fine.**  
 11 Q. Okay.  
 12 MR. CRANE: This would be a good time to  
 13 stop to --  
 14 THE WITNESS: Yeah. I --  
 12:15:25 15 MR. CRANE: We're going to need a --  
 16 THE WITNESS: That's fine.  
 17 MR. CRANE: -- break for lunch anyway. At  
 18 least I'll -- I'll need a break for lunch.  
 19 MR. BARBOUR: This is a good spot to stop.  
 12:15:31 20 MR. CRANE: Well, it seems like it for  
 21 you.  
 22 MR. BARBOUR: Yeah, yeah.  
 23 THE WITNESS: Okay.  
 24 MR. BARBOUR: We'll go off the record.  
 12:15:37 25 THE VIDEOGRAPHER: The time is 12:15, and

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1 **A. In that office, yes.**  
 2 Q. In your -- In your office.  
 3 **A. Uh-huh.**  
 4 Q. Are you aware of whether anyone in -- Well, let  
 13:05:07 5 me strike that.  
 6 How many offices did Klinger have, to the  
 7 best of your recollection?  
 8 **A. I -- I'm not certain. I know they were a**  
 9 **nationwide company.**  
 13:05:15 10 Q. Do you have any knowledge as to whether anyone  
 11 in other offices were laid off at the same time as you?  
 12 **A. No, I do not.**  
 13 Q. Did anyone at Klinger speak to you regarding  
 14 your layoff?  
 13:05:29 15 **A. Yes. It was the manager.**  
 16 Q. And who -- what was the manager's name?  
 17 **A. I think his last name was Herrera.**  
 18 Q. H-E-R-R-E-R-A?  
 19 **A. I -- That sounds right.**  
 13:05:45 20 Q. Was it a Mr. or Ms. Herrera?  
 21 **A. Mister.**  
 22 Q. And you don't recall Mr. Herrera's first name?  
 23 **A. It's Mike -- Michael, maybe, or Mike. It --**  
 24 **I -- It was a four-letter -- like, Mike or Richard.**  
 13:05:59 25 Q. Was Mr. Herrera your manager for the entire

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1 time your were at Klinger?  
 2 **A. Yes.**  
 3 Q. What do you recall Mr. Herrera telling you  
 4 about the reasons you were being laid off?  
 13:06:11 5 **A. That there was a company-wide layoff and he was**  
 6 **very sorry.**  
 7 Q. Do you recall the approximate date on which you  
 8 were -- or even year you were laid off from Klinger?  
 9 **A. No, I do not.**  
 13:06:21 10 Q. Were you laid off -- To the best of your  
 11 recollection, were you laid off from Klinger Specialties  
 12 due to substandard, poor work performance on your part?  
 13 **A. No.**  
 14 Q. To the best of your recollection, were you laid  
 13:06:39 15 off from Klinger due to violation of company policies?  
 16 **A. No, no violations.**  
 17 Q. Okay. Any other answers to questions I've  
 18 already asked you that you'd like to change the answers  
 19 to at this point?  
 13:06:57 20 **A. Not at this time, no. No.**  
 21 Q. I do want to discuss in a little bit more  
 22 detail, kind of, the years you were employed with UPS.  
 23 **A. Okay.**  
 24 Q. I know you went out on leave in April 2013 and  
 13:07:09 25 that precipitated some of the events that led to your

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1 **recall.**  
 2 Q. Okay. And I am far from a medical  
 3 professional, Mr. Gonzalez, so in layman's terms, can  
 4 you talk me through how these conditions manifested  
 13:08:49 5 themselves in you and kind of what -- what your physical  
 6 condition was at that time?  
 7 **A. Well, it -- the way it manifested was due to**  
 8 **repetitive stress or repetitive actions.**  
 9 Q. And I guess my question is: Did you have the  
 13:09:09 10 inability to move your shoulder at that time?  
 11 **A. What a frozen shoulder is, it does feel like**  
 12 **it -- it's frozen, like it's -- it's very rigid.**  
 13 Q. Uh-huh.  
 14 **A. And what it is, is it's a swelling of the**  
 13:09:23 15 **capsule in the shoulder. So when you have swelling in**  
 16 **there, it hits other nerves and makes it difficult to**  
 17 **move the shoulder.**  
 18 Q. And you said that you had surgery on that  
 19 shoulder at that time; is that right?  
 13:09:35 20 **A. Yeah. That sounds correct.**  
 21 Q. Okay. Who -- Do you recall who your surgeon  
 22 for that procedure would have been?  
 23 **A. Yes. That was Dr. Scott Sledge.**  
 24 Q. How long has Dr. Sledge treated you?  
 13:09:47 25 **A. Since two thou -- at least 2013.**

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1 termination. We'll talk about that in more detail.  
 2 But do you recall requesting leave from  
 3 your work with UPS sometime the year before, in 2012?  
 4 **A. Yes.**  
 13:07:21 5 Q. And specifically I'm talking about a period of  
 6 leave that began sometime in September of 2012.  
 7 **A. Yes.**  
 8 Q. What was the reason that you requested leave in  
 9 September of 2012?  
 13:07:33 10 **A. It was surgery.**  
 11 Q. And what kind of surgery was it, if you don't  
 12 mind me asking?  
 13 **A. It was probably so -- shoulder surgery.**  
 14 Q. And what medical condition was that surgery  
 13:07:51 15 targeted or directed at?  
 16 **A. The common description is frozen shoulder, also**  
 17 **known as adhesive capsulitis. And there was a couple of**  
 18 **other medical terms involved that they -- they fixed, so**  
 19 **to speak.**  
 13:08:11 20 Q. And what would those medical terms be?  
 21 **A. Oh, those, I'm not -- I think one was**  
 22 **acromioplasty, A-C-R-O -- cromio --**  
 23 **A-C-R-M-I-O-P-L-A-S-T-Y [sic]. And I believe he also**  
 24 **shaved off a burr. And I -- I don't -- There may have**  
 13:08:37 25 **been one other as part of the procedure, but I don't**

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1 Q. Right here I'm referencing at least a period of  
 2 leave that you took in 2012.  
 3 **A. Okay. And it --**  
 4 Q. Would Dr. Sledge have been --  
 13:10:05 5 **A. I -- I have had two surgeries from him. So one**  
 6 **was right shoulder; the other was left shoulder. So the**  
 7 **dates, I -- offhand, I don't know --**  
 8 Q. Okay.  
 9 **A. -- spe -- specifically.**  
 13:10:15 10 Q. But to the best of your recollection, this  
 11 period of leave that began in September 2012 was on  
 12 account of that first shoulder surgery?  
 13 **A. Yes.**  
 14 Q. All right. Was Grace Eason your supervisor  
 13:10:27 15 when -- or as of September 2012?  
 16 **A. Yes.**  
 17 Q. Did you say Kris Johnson was your manager?  
 18 **A. He's a sales manager.**  
 19 Q. Sales manager. Was Kris Johnson your sales  
 13:10:39 20 manager as of 2012?  
 21 **A. Yes.**  
 22 Q. Do you recall Grace Eason saying anything  
 23 negative as of 2012 about the fact that you were  
 24 requesting leave?  
 13:10:49 25 **A. No.**

20 (Pages 74 to 77)



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1 Q. Do you recall Mr. Johnson saying anything  
2 negative about the fact that you requested leave?  
3 A. No.  
4 Q. How did you go about requesting leave? Did you  
13:10:57 5 reach out to HR and ask them?  
6 A. Yes. I went through -- I advised Grace, my  
7 supervisor, about the surgery date. I also advised  
8 Carmen Elizondo about the scheduled surgery date.  
9 Q. And Carmen at that point was an HR specialist,  
13:11:13 10 wasn't she?  
11 A. I believe that's her title. I'm not certain.  
12 Q. Did Ms. Elizondo assist you in doing whatever  
13 paperwork was necessary to get that leave approved?  
14 A. Yes.  
13:11:27 15 Q. Did you find her to be helpful in getting that  
16 leave approved?  
17 A. Yes.  
18 Q. Did Ms. Elizondo say anything negative to you  
19 about the fact that you were requesting leave at that  
13:11:37 20 time?  
21 A. No.  
22 Q. As of September 2012, at least when you  
23 requested that leave, did anybody at UPS say anything  
24 negative about your medical condition or the fact that  
13:11:47 25 you had this shoulder condition?

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1 A. No.  
2 Q. Do you remember approximately how long you were  
3 out on leave in 2012?  
4 A. Approximately six weeks.  
13:12:01 5 Q. Okay. If I told you you came back to work  
6 sometime in October 2012, more or less within the next  
7 month, does that sound more or less right?  
8 A. That's -- Tell me again the -- the first date.  
9 Q. The records indicate that you went out on leave  
13:12:15 10 on September 27th and came back on October 15th.  
11 A. September to October. So give me the number of  
12 weeks that you have that --  
13 Q. I would say approximately three weeks or so.  
14 And --  
13:12:29 15 A. Okay.  
16 Q. -- I'm not trying to split hairs here. Does  
17 that sound --  
18 A. Yeah. No, no. That's -- That's fine. Three  
19 weeks.  
13:12:35 20 Q. You said you had a sol -- shoulder surgery  
21 while you were out; is that right?  
22 A. Yes.  
23 Q. Okay. Do you recall what restrictions you had  
24 when you returned from leave in 2012?  
13:12:45 25 A. After being out those three weeks?

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1 Q. Yes, sir.  
2 A. I did not have any restrictions. I -- That was  
3 the only way to get back to work, was without  
4 restrictions.  
13:13:03 5 Q. So it's your testimony you didn't have any  
6 restrictions when you tried to come back to work in  
7 2012?  
8 A. My testimony is, UPS wouldn't let me go back to  
9 work unless I had a doctor's note that said I could  
13:13:17 10 return to work without restrictions.  
11 Q. We'll discuss that in a little bit more detail,  
12 but my question to you right now is: Did you have any  
13 restrictions when you came back to work in October 2012,  
14 to the best of your recollection?  
13:13:29 15 A. No.  
16 Q. Okay. Now, in terms of your testimony being  
17 that UPS wouldn't allow you to come back with any  
18 restrictions, what is that testimony based on?  
19 A. Conversations I've had with other em --  
13:13:43 20 employees of UPS.  
21 Q. And who at UPS told you that you cannot come  
22 back to work if you had any restrictions?  
23 A. Carmen Elizondo.  
24 Q. Anyone else?  
13:13:51 25 A. None other -- Nobody else that I recall right

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1 now.  
2 Q. Do you remember when it was that Ms. Elizondo  
3 told you that you could not come back to work if you had  
4 any restrictions at all?  
13:14:09 5 A. May have been as early as 2008 or '9.  
6 Q. And did she tell you this in an e-mail or --  
7 A. No.  
8 Q. -- orally, or how did she go about telling you?  
9 A. Orally.  
13:14:35 10 Q. In 2008 or 2009, in what context did it arise  
11 that Ms. Elizondo told you that you couldn't come back  
12 to work if you had any restrictions at all?  
13 A. That was -- I don't recall exact verbiage, but  
14 the -- what I do recall is she said, "In order to go  
13:14:55 15 back to work to your team or a team, we must have a  
16 doctor's note that states, 'I can return to work without  
17 restrictions.'" If I do not have that, I cannot return  
18 to work.  
19 Q. You -- You said she had told you this back as  
13:15:19 20 early as 2008 or 2009, correct?  
21 A. Yes.  
22 Q. Did you have some medical condition back in  
23 2008 or 2009 that -- that gave you certain restrictions  
24 in relationship to your work for UPS?  
13:15:31 25 A. I did not have -- That gave me certain

21 (Pages 78 to 81)

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1 **restrictions? Please clarify your question.**  
 2 Q. Yes, sir. You're -- It's your testimony that  
 3 Ms. Elizondo told you sometime in 2008 or 2009 that to  
 4 work for UPS you had to have no restrictions at all. Is  
 13:15:47 5 that correct?  
 6 **A. Yes.**  
 7 Q. Okay. I guess my question is: Did she just  
 8 say this out of the blue in 2008 or 2009, or did you  
 9 have some medical condition that that --  
 13:15:55 10 **A. I had a medical --**  
 11 Q. -- kind of related to?  
 12 **A. I had an upcoming medical condition.**  
 13 Q. And what condition did you have back in 2008 or  
 14 2009?  
 13:16:05 15 **A. It was carpal tunnel release surgery.**  
 16 Q. So you had a surgery back in 2008 or 2009; is  
 17 that right?  
 18 **A. Yes. Approximately, yes.**  
 19 Q. Did you take FMLA leave or did you take a  
 13:16:13 20 medical leave of absence for that carpal tunnel surgery?  
 21 **A. For the sur -- Yes, I did.**  
 22 Q. Do you recall approximately how long you were  
 23 out as a result of that carpal tunnel surgery?  
 24 **A. No.**  
 13:16:23 25 Q. Did you return to work in your ISR position

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1 **A. Orally, correct.**  
 2 Q. And in 2008 or 2009, this is four or five years  
 3 prior to the period of leave you took in April 2013,  
 4 correct?  
 13:17:39 5 **A. That math sounds right.**  
 6 Q. Right. Did you ever ask Ms. Elizondo whether  
 7 this, quote, unquote, no restrictions policy was written  
 8 anywhere in company handbooks or anything?  
 9 **A. I did not.**  
 13:17:55 10 Q. Did you think it was unfair if UPS had this,  
 11 quote, unquote, no restrictions policy?  
 12 **A. I don't recall what I thought of it at the**  
 13 **time. I just thought it was protocol.**  
 14 Q. Other than your carpal tunnel surgery in 2008  
 13:18:11 15 and 2009, did Ms. Elizondo ever tell you after that that  
 16 UPS wouldn't allow you to come back unless you had no  
 17 restrictions?  
 18 **A. I just recall the one time. There may have**  
 19 **been another time, but I don't recall them.**  
 13:18:27 20 Q. You don't recall anyone other than Ms. --  
 21 **A. Well --**  
 22 Q. Go ahead.  
 23 **A. -- I take -- I'm sorry to interrupt.**  
 24 **I -- I recall sending her some**  
 13:18:37 25 **correspondence stating that I will -- And this may not**

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1 following that surgery?  
 2 **A. I did.**  
 3 Q. And is it your testimony that when you were  
 4 returning from that carpal tunnel surgery Ms. Elizondo  
 13:16:35 5 told you you can't come back to work unless you have no  
 6 restrictions at all?  
 7 **A. Repeat your question.**  
 8 Q. Yes, sir.  
 9 **A. Because there's a timing I'm trying to get**  
 13:16:45 10 **clarified.**  
 11 Q. Okay. It's your testimony that you had carpal  
 12 tunnel surgery back in 2008 or 2009, correct?  
 13 **A. Yes.**  
 14 Q. And is it your testimony that when you were  
 13:16:53 15 attempting to return from that carpal tunnel surgery it  
 16 was at that point that Ms. Elizondo told you you can't  
 17 come back to work unless you have no restrictions?  
 18 **A. It was prior to the surgery. There were**  
 19 **instructions given to her -- to me saying to be sure to**  
 13:17:11 20 **get a note from your doctor stating that you can return**  
 21 **to work without restrictions, because without it you**  
 22 **cannot go back to work.**  
 23 Q. And you said these were instructions given to  
 24 you. And these were instructions given to you orally,  
 13:17:29 25 correct?

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1 **have been after that surgery, because I've had several.**  
 2 **It may have been after cubital tunnel surgery, or it may**  
 3 **have been after sol -- shoulder surgery.**  
 4 **I sent her an e-mail, which I often did,**  
 13:18:59 5 **giving her updates of my condition as far as concerning**  
 6 **my return to work --**  
 7 Q. Uh-huh.  
 8 **A. -- and how I was recovering. And I sent her an**  
 9 **e-mail saying, "Yes, I -- and I do know I need to get a**  
 13:19:13 10 **doctor's note from my doctor that states I need to**  
 11 **return to work without restrictions."**  
 12 Q. And that was an e-mail you sent to Ms. Elizondo  
 13 at some point? You don't --  
 14 **A. Yeah, at some point.**  
 13:19:27 15 Q. -- recall exactly?  
 16 **A. Yeah.**  
 17 Q. Okay. But other than her telling you prior to  
 18 going out on leave in 2008 or 2009 for your carpal  
 19 tunnel surgery that you couldn't come back unless you  
 13:19:37 20 had no restrictions, do you recall her ever telling you  
 21 again that that was company policy?  
 22 **A. I don't recall her verbally telling me again,**  
 23 **no.**  
 24 Q. And you don't recall anyone other than  
 13:19:47 25 Ms. Elizondo telling you that company policy was that



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1 you couldn't come back unless you had no restrictions?  
 2 **A. I -- I can't say for certain. The only other**  
 3 **person that would have told me that may have been the HR**  
 4 **manager at the time.**  
 13:20:01 5 Q. And who was the HR manager at that time?  
 6 **A. It was Rick Montecinos.**  
 7 Q. Do you recall Mr. Montecinos telling you you  
 8 couldn't come back to work unless you had no  
 9 restrictions?  
 13:20:13 10 **A. I don't recall him specifically saying that,**  
 11 **no.**  
 12 Q. Do you recall him saying anything of that sort?  
 13 **A. I can't say for -- for certain that he did.**  
 14 Q. Do you have any notes that you would have taken  
 13:20:29 15 around that period of time that would reflect your  
 16 conversations with Mr. Montecinos or with Ms. Elizondo?  
 17 **A. With Mr. Montecinos, no. The e-mail I -- I**  
 18 **mentioned to you, yes --**  
 19 Q. That was an e-mail --  
 13:20:41 20 **A. -- with Ms. Eli --**  
 21 Q. Sorry. I apologize.  
 22 **A. No, no, no. That's okay. We --**  
 23 Q. That was an e-mail to Ms. Elizondo, right?  
 24 **A. Yes, ma'am. I'm sorry. Yes, sir.**  
 13:20:45 25 Q. You're fine.

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1 **A. Sorry about that, Justin.**  
 2 Q. You're fine.  
 3 **A. Thinking about Carmen.**  
 4 Q. Other than Mr. -- I guess you don't remember it  
 13:20:53 5 with Mr. Montecinos. So other than with Ms. Elizondo,  
 6 you don't remember anybody else at UPS telling you there  
 7 was this, quote, unquote, no restrictions policy then?  
 8 **A. Correct.**  
 9 **(Exhibit 2 marked.)**  
 13:21:09 10 Q. (By Mr. Barbour) Okay. I'll hand you what I've  
 11 marked as Exhibit 2 to your deposition, Mr. Gonzalez.  
 12 And I'll represent to you that Exhibit 2 is three pages  
 13 of documents that your counsel produced to us in this  
 14 litigation and ask you if you're familiar with these  
 13:21:35 15 documents.  
 16 **A. I am familiar with the documents.**  
 17 Q. And earlier or just a moment ago you had  
 18 testified that you had provided Ms. Elizondo with some  
 19 doctors' notes indicating that you could return to work,  
 13:21:47 20 quote, unquote, with no restrictions, correct?  
 21 **A. Yes.**  
 22 Q. Okay. The bottom right-hand page of these  
 23 documents again has some numbers on them.  
 24 **A. Okay.**  
 13:21:57 25 Q. And I'm looking at Page 1540 and 1541.

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1 Are these the doctors' notes that you  
 2 provided to Ms. Elizondo indicating that you could  
 3 return to work, quote, unquote, without restrictions?  
 4 **A. Yes. These -- These are some of them.**  
 13:22:13 5 Q. You would agree with me that nothing on  
 6 Page 1540, 1541 is Ms. Elizondo telling you you can't  
 7 return unless you have no restrictions, correct?  
 8 **A. That -- That's correct. These are doctors'**  
 9 **script pads.**  
 13:22:29 10 Q. Then, when I look at Page 1542, at that third  
 11 page of Exhibit 2, is this the e-mail that you're  
 12 referencing you had sent to Ms. Elizondo?  
 13 **A. Yes. This is the one I was referring to.**  
 14 Q. Okay.  
 13:22:51 15 **A. And I was thinking of the -- a different**  
 16 **surgery. So the -- the year I gave you around 2009**  
 17 **was -- was not correct.**  
 18 Q. Well, the --  
 19 **A. So the -- So the date on this -- this**  
 13:23:05 20 **correspondence is more accurate.**  
 21 Q. Okay. Well, the doctors' notes that we have  
 22 that are 1540 and 1541 are dated in 2009, are they not?  
 23 **A. Yes, they are.**  
 24 Q. And is it your testimony that you got these  
 13:23:19 25 doctors' notes because Ms. Elizondo told you that you

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1 couldn't return to work unless you had no restrictions?  
 2 **A. She -- I'm sorry. Can you please repeat that?**  
 3 Q. Yes, sir. 1540 and 1541 are three doctors'  
 4 notes releasing you to return to work in 2009, quote,  
 13:23:39 5 with no restrictions, aren't they?  
 6 **A. Yes.**  
 7 Q. Is it your testimony that you got these three  
 8 notes because Ms. Elizondo had previously told you you  
 9 couldn't return to work if you had restrictions?  
 13:23:49 10 **A. Yes, that's correct.**  
 11 Q. And so the one time that you recall her telling  
 12 you that that was company policy would have happened  
 13 sometime prior to April 14th, 2009, the first of these  
 14 notes, wouldn't it?  
 13:24:03 15 **A. Well, she -- she never -- she never**  
 16 **specifically said it was company policy. She just said**  
 17 **I needed to have this note from my doctor to return to**  
 18 **work.**  
 19 Q. So she didn't say it was company policy?  
 13:24:17 20 **A. No, she never said it was company policy. She**  
 21 **just said I needed -- when I come back, I need to bring**  
 22 **a -- a note from the doctor stating I can return to work**  
 23 **without restrictions.**  
 24 Q. I just want to make sure that I understand  
 13:24:35 25 here. You only recall her telling you that once

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1 specifically, correct?  
 2 **A. Correct.**  
 3 Q. And because the first of these doctors' notes  
 4 that say you can return, quote, without restrictions is  
 13:24:47 5 dated April 14th, 2009, she would have told you that  
 6 sometime prior to that date; is that correct?  
 7 **A. I -- As far as the dates, I cannot be certain**  
 8 **on the dates because I -- I just recall it being prior**  
 9 **to when -- what I believe was my carpal tunnel surgery,**  
 13:25:13 10 **which is the first surgery I had.**  
 11 Q. Back in 2009?  
 12 **A. Yes.**  
 13 Q. Okay.  
 14 **A. Approximately, yeah, around that -- around**  
 13:25:21 15 **2009.**  
 16 Q. Okay. And I understand dates get hazy as time  
 17 goes on.  
 18 **A. Yes.**  
 19 Q. I understand that.  
 13:25:25 20 But it would be your testimony, then, that  
 21 she would have told you that you had to have a note with  
 22 no restrictions sometime back in 2009, give or take?  
 23 **A. Yes, sir.**  
 24 Q. Okay. The last of these documents, Page 1542,  
 13:25:39 25 this is an e-mail to you -- from you to Ms. Gonzalez --

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1 excuse me -- Ms. Elizondo --  
 2 **A. Yes.**  
 3 Q. -- dated October 8th, 2013; is that correct?  
 4 **A. It is.**  
 13:25:47 5 Q. And this would have been during that period of  
 6 time that ultimately culminated in your separation,  
 7 correct?  
 8 **A. Yes.**  
 9 Q. Okay. When I look at the middle right here,  
 13:25:55 10 there's a paragraph that begins with, "My next doctor's  
 11 appointment." You see where I'm at?  
 12 **A. Yes, sir.**  
 13 Q. And you tell Ms. Elizondo, "My next doctor's  
 14 appointment with my orthopedic surgeon is scheduled for  
 13:26:07 15 October 22nd. My hope is he will release me to return  
 16 to work without restrictions." Is that correct?  
 17 **A. That is correct.**  
 18 Q. Okay. And it's your testimony that you  
 19 provided this because Ms. Elizondo had previously told  
 13:26:17 20 you you can't return to work if you have restrictions?  
 21 **A. Correct.**  
 22 Q. But you don't have any e-mail or other document  
 23 from Ms. Elizondo in which she told you that was a  
 24 requirement?  
 13:26:27 25 **A. Correct.**

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1 Q. Other than these three pages, Pages 1540  
 2 through 1542, are you aware of any other documents in  
 3 your possession that would show that UPS wouldn't allow  
 4 you to return to work if you had any restrictions at  
 13:26:45 5 all?  
 6 **A. I am aware -- aware of some additional doctors'**  
 7 **notes that I submitted to UPS, to Ms. Elizondo, from --**  
 8 **from another time I was out on leave, but I --**  
 9 Q. Do you --  
 13:27:05 10 **A. -- I don't re -- I -- I don't -- I can't find**  
 11 **them. I don't know where they are.**  
 12 Q. Do you -- So you don't have copies of those  
 13 notes anywhere --  
 14 **A. I don't --**  
 13:27:13 15 Q. -- yourself?  
 16 **A. I don't think so. Not -- I have gone through**  
 17 **my files and have -- did not locate -- I submitted or**  
 18 **provided what I could find.**  
 19 Q. Do you recall when those notes would have been  
 13:27:21 20 from?  
 21 **A. Let's see. Two thousand -- Let's see. We've**  
 22 **got 2009. 4/2009. I'm going to say two thousand -- I**  
 23 **believe there's two more. 2011 -- and 2013 is from --**  
 24 **Let's see. So 2011, 2012. I believe there's two more.**  
 13:28:05 25 Q. Okay. So it's safe to say that you took

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1 medical leave in 2009, 2011 and 2012, correct?  
 2 **A. That sounds correct.**  
 3 Q. And when you returned from each of those, you  
 4 didn't have any restrictions on your ability to do your  
 13:28:17 5 job for UPS; is that right?  
 6 **A. Correct.**  
 7 Q. And you were returned to your position with UPS  
 8 after each of those three periods of leave, weren't you?  
 9 **A. I was returned to a position of an ISR, yes.**  
 13:28:29 10 Q. Which was the position you held before you went  
 11 out on leave?  
 12 **A. Or I was returned to growth group.**  
 13 Q. And you told me earlier that in the growth  
 14 group, that was still an ISR position you were  
 13:28:41 15 performing.  
 16 **A. Yes.**  
 17 Q. Right. Okay.  
 18 **A. Yes. There's a distinction between growth**  
 19 **group and ISR --**  
 13:28:45 20 Q. Well, what's the distinction --  
 21 **A. -- as well.**  
 22 Q. -- between growth group and ISR?  
 23 **A. Growth group's a -- where new employees start**  
 24 **out or people from leave come back because they are**  
 13:28:59 25 **going to be reassigned a new territory.**

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1 Q. So it's not a different job title; it's just a  
2 different group in which you're performing the ISR  
3 position. Is that more or --  
4 **A. Yes.**  
13:29:11 5 Q. -- less correct?  
6 **A. Yeah. That sounds fair, yeah.**  
7 Q. Okay.  
8 **A. Correct.**  
9 Q. In 2009 or 2011 or 2012, when you returned to  
13:29:17 10 work, you didn't have any limitations on your ability to  
11 make decisions, did you?  
12 **A. No.**  
13 Q. When you returned to work in 2009, 2011, 2012,  
14 you didn't have any restrictions on your cognitive  
13:29:31 15 memory --  
16 **A. Correct.**  
17 Q. -- did you?  
18 Okay. And similarly, when you returned to  
19 work after each of those three periods of leave, you  
13:29:39 20 didn't have any cognitive restrictions whatsoever --  
21 **A. No.**  
22 Q. -- did you?  
23 Okay. Now, you did request leave from UPS  
24 in April of 2013, didn't you?  
13:29:55 25 **A. Yes, sir.**

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1 Q. What was the medical condition that led you to  
2 request some leave at that time?  
3 **A. It was a shoulder surgery.**  
4 Q. And what shoulder surgery -- that shoulder  
13:30:07 5 surgery was treating what medical condition?  
6 **A. Adhesive capsulitis.**  
7 Q. The same as -- same condition we discussed  
8 earlier?  
9 **A. Yes, sir.**  
13:30:15 10 Q. Had that medical condition restricted your  
11 ability to perform the job you were performing for UPS  
12 at that time?  
13 **A. I was -- No. I was doing my job up until the**  
14 **time I had my surgery.**  
13:30:37 15 Q. When you requested leave -- At the time you had  
16 requested leave in April of 2013, had Ms. Eason said  
17 anything critical or negative to you about the fact that  
18 you had this shoulder condition?  
19 **A. No.**  
13:30:51 20 Q. Had Mr. Johnson said anything critical about  
21 the fact that you had this shoulder condition?  
22 **A. No, sir.**  
23 Q. And UPS requested [sic] your request for leave  
24 in April of 2013, didn't they?  
13:31:03 25 **A. I'm sorry. Say it again.**

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1 Q. Yeah. You requested leave for your adhesive  
2 capsulitis in April of 2013, and UPS approved that,  
3 didn't they?  
4 **A. They did.**  
13:31:13 5 Q. Okay. Approximately how long did you stay out  
6 on leave?  
7 **A. This is the last time I was out?**  
8 Q. I believe so, yes, sir.  
9 **A. I was out for approximately one year. I was --**  
13:31:31 10 **I requested a return to work in April.**  
11 Q. April of 2014?  
12 **A. Yes.**  
13 Q. Yes, sir. Would it be fair to say that you  
14 went out on leave in April of 2013, stayed on leave for  
13:31:45 15 about a year and tried to come back at least in April  
16 of 2014? Wouldn't it?  
17 **A. No. It -- It wasn't a calendar year. It was a**  
18 **calendar year that -- that it took for me to be**  
19 **terminated, but I requested to come back to work three**  
13:31:59 20 **months prior to my termination.**  
21 Q. Okay. Okay. While you were out on leave, did  
22 you develop a medical condition known as CRPS?  
23 **A. Yes.**  
24 Q. And to the best of your recollection, when did  
13:32:15 25 the CRPS disorder first come about or first be

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1 diagnosed?  
2 **A. I believe it was diagnosed about 2011.**  
3 Q. So this was a condition you had that predated  
4 your April 2013 --  
13:32:27 5 **A. Yes.**  
6 Q. -- period of leave?  
7 **A. Correct.**  
8 Q. Was there some relationship, to the best of  
9 your understanding, between your CRPS and your adhesive  
13:32:37 10 capsulitis?  
11 **A. A relationship between my CRPS and adhesive**  
12 **cap -- I'm sorry. Say it again.**  
13 Q. Yeah. Did -- Did your adhesive capsulitis  
14 cause your CRPS, or was there some relationship, or were  
13:32:51 15 they two independent medical disorders?  
16 **A. The -- The initial surgery for carpal tunnel**  
17 **may have been what caused my CRPS.**  
18 Q. But to the best of your understanding, there  
19 wasn't necessarily a relationship between your shoulder  
13:33:09 20 disorder and the CRPS itself?  
21 **A. That's not necessarily true. The CRPS is a**  
22 **disease of inflammation and pain. So it does spread, so**  
23 **it -- and it has spread to both extremities -- upper**  
24 **extremities.**  
13:33:35 25 Q. Do you still suffer from CRPS today?

25 (Pages 94 to 97)

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1 A. Yes.  
 2 Q. So you've had that condition for at least  
 3 approximately the last six years; is that right?  
 4 A. Yes.  
 13:33:47 5 Q. While you were out on leave for 9 to  
 6 12 months -- and I understand you requested to come back  
 7 at some point.  
 8 A. Uh-huh.  
 9 Q. But while you were out on leave for -- in 2013,  
 13:33:59 10 2014, what type of treatments were you undergoing with  
 11 your medical providers?  
 12 A. I was undergoing stellate ganglion blocks.  
 13 S-T-E-L-L-A-T-E. Ganglion, G-A-N-G-L-I-O-N.  
 14 Q. And what does that procedure --  
 13:34:21 15 A. It's a --  
 16 Q. -- do?  
 17 A. It's a -- What it does, it's a -- an x-ray  
 18 guided injection into my -- the spine around -- in my  
 19 neck to anesthetize the nerves to reduce my pain  
 13:34:45 20 symptoms.  
 21 Q. Did you have any other surgeries during the  
 22 years 2013 or 2014?  
 23 A. Besi -- Aside from the two shoulder surgeries  
 24 and the carpal tunnel?  
 13:35:01 25 Q. Well, you had the carpal tunnel prior to 2013,

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1 correct?  
 2 A. Yes.  
 3 Q. Okay.  
 4 A. I had carpal tunnel, and I don't recall the  
 13:35:07 5 dates of the superseding procedures, but I also had  
 6 cubital tunnel release surgery of my right elbow.  
 7 Q. Was that prior to 2013?  
 8 A. Yes.  
 9 Q. And was that one of those periods of leave that  
 13:35:21 10 you had in 2009, 2011 or 2012?  
 11 A. Yes, sir.  
 12 Q. Okay. Let me ask you this way: While you were  
 13 out on leave beginning in April of 2013, did you feel  
 14 that your medical treatments improved your physical  
 13:35:35 15 condition?  
 16 A. The carpal tunnel release surgery did improve  
 17 the carpal tunnel issue. The cubital tunnel also  
 18 improved that issue. And the shoulder surgeries, it's a  
 19 yes, and that's a very complicated answer, because  
 13:36:11 20 complex regional pain syndrome is a complex disease.  
 21 There's no cure for it.  
 22 It's just treated with, well, the stellate  
 23 ganglion blocks. A spinal cord stimulator was another  
 24 procedure I had for it. That was unsuccessful. And  
 13:36:35 25 then Ketamine infusions -- Ketamine infusions were the

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1 next step for treatment.  
 2 Q. Let me ask it this way, I guess: You went out  
 3 on leave in April of 2013 because you felt you needed  
 4 time off before you could perform your job at UPS. Is  
 13:36:51 5 that a fair statement?  
 6 A. I -- I needed -- Time off would have been nice,  
 7 additional -- some additional time off, or return to  
 8 work at re -- reduced hours.  
 9 Q. You requested return back to work sometime in  
 13:37:13 10 early February 2014; is that correct? Give or take.  
 11 A. Give or take, yeah.  
 12 Q. Yeah. I'm not going to hold you to that --  
 13 A. Okay.  
 14 Q. -- right now.  
 13:37:21 15 A. Thank you.  
 16 Q. But -- But sometime in early 2014 --  
 17 A. Uh-huh.  
 18 Q. -- you requested to return to work; is that  
 19 correct?  
 13:37:27 20 A. Yes, sir.  
 21 Q. Okay. Did you feel more capable of performing  
 22 your position with UPS in early 2014 than you had when  
 23 you went out on leave in April of 2013?  
 24 A. Did I feel more capable?  
 13:37:37 25 Q. Yes, sir.

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1 A. I can't say there was -- there was -- I was  
 2 undergoing treatment from my pain management doctor in  
 3 2014, and the treatment -- his specialty in pain  
 4 management is backs. And then he recommended I go to  
 13:38:01 5 another pain manage doctor -- management doctor that  
 6 specialized in more -- or in other chronic pain issues  
 7 like CRPS.  
 8 Q. And who is your pain specialist?  
 9 A. The first one or second one?  
 13:38:17 10 Q. First one.  
 11 A. Dr. Raul Martinez.  
 12 Q. Okay. And who was your second pain specialist?  
 13 A. Dr. Donald Bacon.  
 14 Q. Do you continue to see Dr. Bacon today?  
 13:38:31 15 A. Yes.  
 16 Q. Do you remember approximately when it was that  
 17 you stopped seeing Dr. Martinez and began seeing  
 18 Dr. Bacon?  
 19 A. 2014 --  
 13:38:37 20 Q. Was there --  
 21 A. -- I believe, yeah.  
 22 Q. Was there any particular reason that you  
 23 stopped seeing Dr. Martinez?  
 24 A. Yes. As I just stated, it's because Dr. Bacon  
 13:38:49 25 treated complex regional pain syndrome more so than

26 (Pages 98 to 101)

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1 **Dr. Martinez. Dr. Martinez was more -- he treated more**  
 2 **patients with back pain.**  
 3 Q. Did -- Did you -- You didn't have any doubts  
 4 about the quality of treatment Dr. Martinez was giving  
 13:39:07 5 you?  
 6 **A. No.**  
 7 Q. Okay. Did you find Dr. Martinez to be a  
 8 competent doctor in his care for you?  
 9 **A. Yes.**  
 13:39:13 10 Q. Did you feel like he had your best interests at  
 11 heart?  
 12 **A. Yes.**  
 13 Q. Did you ever feel like he misrepresented your  
 14 physical condition in any way, to the best of your  
 13:39:21 15 knowledge?  
 16 **A. No.**  
 17 **(Exhibit 3 marked.)**  
 18 Q. (By Mr. Barbour) I'm going to hand you what  
 19 I've marked as Exhibit 3 to your deposition,  
 13:39:33 20 Mr. Gonzalez.  
 21 **A. Sir, is it okay to take a bathroom break --**  
 22 Q. Please. Absolutely.  
 23 **A. -- right at this time?**  
 24 Q. This is a good time.  
 13:39:39 25 **A. It's a good time? Okay. Thank you.**

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1 THE VIDEOGRAPHER: The time is 1:39 p.m.,  
 2 and we are off the record.  
 3 (Off the record.)  
 4 THE VIDEOGRAPHER: The time is 1:44 p.m.,  
 13:44:37 5 and we are on the record.  
 6 Q. (By Mr. Barbour) Mr. Gonzalez, are you ready to  
 7 proceed, sir?  
 8 **A. Yes, sir.**  
 9 Q. Any answers at this time that you would like to  
 13:44:43 10 change?  
 11 **A. No, sir.**  
 12 Q. Okay. Before our break, I had handed you what  
 13 I had marked as Exhibit 3 to our deposition. Do you  
 14 have that document?  
 13:44:51 15 **A. Yes, sir.**  
 16 Q. Does this appear to be a document completed by  
 17 Dr. Scott Sledge?  
 18 **A. Yes.**  
 19 Q. And have you seen this document prior to today?  
 13:45:01 20 Do you know?  
 21 **A. No. I don't recall it, no.**  
 22 Q. Does this appear to be a document that  
 23 Dr. Sledge had completed in relationship to some claims  
 24 made on your behalf with Aetna?  
 13:45:13 25 **A. Yes.**

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1 Q. And do you -- apart from this form, do you  
 2 generally remember Dr. Sledge submitting forms in  
 3 relationship to your long-term disability claim with  
 4 Aetna?  
 13:45:25 5 **A. Yes.**  
 6 Q. Does this particular form appear to be signed  
 7 by Dr. Sledge on October 22nd of 2013?  
 8 **A. Yes, it does.**  
 9 Q. Okay. And when I look up into the body of the  
 13:45:37 10 document, does it indicate -- going about three-fourths  
 11 of the way down, do you see the line that says, "Total  
 12 number of hours patient capable of working per day"?  
 13 And I can direct you to it, if you would  
 14 like me to, sir.  
 13:45:53 15 **A. Yes.**  
 16 Q. I apologize. I'm looking -- Thank you.  
 17 **A. Oh, okay.**  
 18 Q. Yeah. I'm right there.  
 19 **A. "Patient capable of working" -- Yes. Okay.**  
 13:46:01 20 **"None."**  
 21 Q. Okay. Yeah.  
 22 **A. "Read above." Uh-huh.**  
 23 Q. And my question: As I see, it does appear that  
 24 Dr. Sledge has written that, as of October 22nd, 2013,  
 13:46:09 25 you were not capable of working any hours during the

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1 day. Is that correct?  
 2 **A. Yes.**  
 3 Q. Is it --  
 4 **A. Yes.**  
 13:46:13 5 Q. I didn't mean to cut you off, Mr. Gonzalez. I  
 6 apologize.  
 7 **A. Yes.**  
 8 Q. Does that generally match your recollection as  
 9 to your work abilities as of October 22nd, 2013?  
 13:46:29 10 **A. I -- I don't recall what my abilities were at**  
 11 **that time.**  
 12 Q. Okay. As you sit here today, do you know one  
 13 way or not -- whether or not you were, in fact, capable  
 14 of working any hours during the day as of October 22nd,  
 13:46:47 15 2013?  
 16 **A. Any hours I -- I was capable of working?**  
 17 Q. Yes, sir.  
 18 **A. It -- I -- I'm -- I'm sure I could have worked**  
 19 **some hours. I -- I really don't recall specifically --**  
 13:47:03 20 Q. Okay.  
 21 **A. -- on this document or -- or my condition at**  
 22 **the time. I know it was -- Let's see. That's 2013.**  
 23 **Yeah. I just don't -- I don't have a**  
 24 **recollection of it.**  
 13:47:21 25 Q. And I -- And I -- I understand and appreciate

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1 that you don't recall this specific document.  
 2 And so setting aside this document --  
 3 **A. Uh-huh.**  
 4 Q. -- October 22nd, 2013 would have been somewhere  
 13:47:33 5 right around one half of the way through your yearlong  
 6 period of leave from working with UPS.  
 7 **A. Okay.**  
 8 Q. Is that correct?  
 9 **A. That -- Yes. Okay. I appreciate the schedule**  
 13:47:43 10 **time frame.**  
 11 Q. Sure. Just to the best of your recollection,  
 12 setting this document aside, do you believe you would  
 13 have been capable of working for UPS or anyone else as  
 14 of October 2013?  
 13:47:55 15 **A. I -- I may have been able to, and it may have**  
 16 **been difficult to. It's still difficult for me to -- to**  
 17 **say absolutely, yes, I -- I could have done the job.**  
 18 Q. So you think you could have but possibly with  
 19 some great difficulty. Is that what you're saying?  
 13:48:21 20 **A. Well, I didn't say "great difficulty," but I --**  
 21 **I may have had difficulties.**  
 22 Q. What kind of difficulties do you think you  
 23 would have had performing any work as of October of  
 24 2013?  
 13:48:35 25 **A. Well, I -- I was recovering from surgery and**

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1 **complications with complex regional pain syndrome.**  
 2 Q. And you didn't try to return to work in October  
 3 of 2013, correct?  
 4 **A. No.**  
 13:48:51 5 Q. And as you sit here today, do you have any  
 6 specific recollection of why it was that wasn't the time  
 7 that you tried to return to work?  
 8 **A. No.**  
 9 Q. Okay.  
 13:49:03 10 (Exhibit 4 marked.)  
 11 Q. (By Mr. Barbour) I'm going to hand you what  
 12 I've marked as Exhibit 4 to your deposition,  
 13 Mr. Gonzalez.  
 14 And, again, my question is -- my first  
 13:49:19 15 question would be: Have you seen this document prior to  
 16 today?  
 17 **A. It -- It does look familiar, but -- yes.**  
 18 Q. Okay. And you say it looks familiar. I -- I  
 19 assume that means that you believe you -- you may have  
 13:49:57 20 seen this document prior to today.  
 21 **A. Yeah. Yes, I may have. I've seen numerous**  
 22 **Aetna documents because of the requirements. This one**  
 23 **is evidently sent directly to my doctor.**  
 24 Q. Okay. When -- When I look at the back -- the  
 13:50:17 25 second page of this document, the numbers are somewhat

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1 confusing, but I believe that it's RG 1699 in the bottom  
 2 right-hand corner.  
 3 Do you see the page I'm looking at?  
 4 **A. Is it -- Is it this one?**  
 13:50:37 5 Q. Yes. It's the one that I think has  
 6 Dr. Martinez's signature at the very bottom.  
 7 **A. Yes. Okay.**  
 8 Q. Okay. Dr. Martinez was -- was your first hand  
 9 specialist; is that correct?  
 13:50:45 10 **A. Yes.**  
 11 Q. And it appears that this document was -- was  
 12 completed by Dr. Martinez on February 19th of 2014; is  
 13 that correct?  
 14 **A. Yes.**  
 13:50:53 15 Q. Okay. Do you recall a specific appointment  
 16 with Dr. Martinez in February of 2014?  
 17 **A. No.**  
 18 Q. When I look at the first page of that  
 19 Exhibit 4, Mr. Gonzalez, second half of the page is a  
 13:51:09 20 box. Above it, it says, "3, impairing diagnosis and  
 21 treatment." Do you see that?  
 22 **A. I do.**  
 23 Q. And when I drop down under F, it says,  
 24 "Medications, dose and frequency." Is that correct?  
 13:51:19 25 **A. Yes.**

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1 Q. And on that, it indicates that you were taking  
 2 Percocet as of that time; is that correct?  
 3 **A. Yes.**  
 4 Q. And I believe it indicates -- or how often --  
 13:51:31 5 Let me strike that.  
 6 Do you recall taking Percocet as of  
 7 February 2014?  
 8 **A. Yes.**  
 9 Q. Are you taking Percocet today?  
 13:51:39 10 **A. No.**  
 11 Q. When did you stop taking Percocet on a regular  
 12 basis?  
 13 **A. About -- Approximately four months ago.**  
 14 Q. Sometime in early 2017?  
 13:51:53 15 **A. Yes.**  
 16 Q. Okay. But you do recall taking Percocet as of  
 17 February 2014?  
 18 **A. Yes.**  
 19 Q. Okay. When I flip over to the second page of  
 13:52:03 20 Exhibit 4, the back of the document you're looking at  
 21 right there, about a third of the way down, do you see a  
 22 box that is numbered five and it says,  
 23 "abilities/limitations"?  
 24 **A. Yes.**  
 13:52:21 25 Q. Okay. When I drop down, the fifth bullet point



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1 down there says, "Able to do," question mark.  
 2 Am I correct that Dr. Martinez, on  
 3 Exhibit 4, has checked off that, as of the date of this  
 4 form, you had no ability to work?  
 13:52:39 5 **A. Yes.**  
 6 Q. And as of February 19th, 2014, Dr. Martinez  
 7 indicated that you had severe limitation of functional  
 8 capacity and you were incapable of minimal activity.  
 9 **A. Yes.**  
 13:52:55 10 Q. Now, at some point you tried to return to work  
 11 with UPS; is that right, Mr. Gonzalez?  
 12 **A. Yes, sir.**  
 13 Q. How did you go about notifying UPS that you  
 14 wanted to return to work?  
 13:53:15 15 **A. I believe I called Carmen Elizondo, and I**  
 16 **probably called the Human Resource Service Center.**  
 17 Q. And sometimes UPS-ers call that the HRSC, don't  
 18 they?  
 19 **A. Yes, sir.**  
 13:53:39 20 Q. I may call it that to save ourselves a little  
 21 bit of time --  
 22 **A. Yes.**  
 23 Q. -- here today.  
 24 So you notified somebody in HR, either in  
 13:53:45 25 San Antonio or the HRSC, that you wanted to try and come

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1 **A. I don't recall.**  
 2 Q. It's possible, but you don't recall?  
 3 **A. It's possible, but I don't recall.**  
 4 Q. When you requested to return to work with UPS,  
 13:55:09 5 did you feel like you were capable of performing the job  
 6 functions expected of you at that time?  
 7 **A. When I -- My first request to come back to work**  
 8 **in --**  
 9 Q. In 2014.  
 13:55:21 10 **A. Yes.**  
 11 Q. You felt like you could perform the job at that  
 12 time?  
 13 **A. Yes.**  
 14 **(Exhibit 5 marked.)**  
 13:55:33 15 Q. (By Mr. Barbour) I know there are accommodation  
 16 issues, and we'll discuss those in a second, but I want  
 17 to hand you what I've marked as Exhibit 5 to your  
 18 deposition.  
 19 And, again, my first question would be:  
 13:55:45 20 Do you recognize Exhibit 5?  
 21 **A. I am not sure.**  
 22 Q. Okay.  
 23 **A. I remember receiving a document requesting**  
 24 **medical information from a physician -- physician, but I**  
 13:56:15 25 **don't recall it being this one.**

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1 back to work?  
 2 **A. Yes.**  
 3 Q. Was there anything in particular that prompted  
 4 you to tell UPS that you wanted to try to come back to  
 13:53:55 5 work?  
 6 **A. I felt I was ready to go back to work. I had**  
 7 **the ability to go back.**  
 8 Q. Okay.  
 9 **A. I had been on Percocet before. When I was**  
 13:54:11 10 **telling you about the previous surgeries, that was the**  
 11 **pain management treatment I was on at the time.**  
 12 Q. When did you begin taking Percocet, to the best  
 13 of your recollection?  
 14 **A. Oh, two thousand -- maybe 2009. I mean, I**  
 13:54:29 15 **wasn't taking it all the time.**  
 16 Q. Was there ever a period of time where you took  
 17 Percocet every day?  
 18 **A. Yes.**  
 19 Q. And what time period would that have been  
 13:54:43 20 during?  
 21 **A. It would have been after one of the shoulder**  
 22 **surgeries. It may have been the -- I'm not sure which**  
 23 **shoulder surgery it was. I don't recall.**  
 24 Q. Do you know whether, in 2014, you were taking  
 13:54:57 25 Percocet on a daily basis?

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1 Q. Exhibit 5 appears to be sent by a Ms. Patricia  
 2 Lorio, doesn't it?  
 3 **A. Yes.**  
 4 Q. Do you recognize Ms. Lorio's name?  
 13:56:27 5 **A. I do.**  
 6 Q. Did you have conversations with Ms. Lorio  
 7 regarding your employment with UPS?  
 8 **A. I had it re -- regarding the accommodation**  
 9 **checklist.**  
 13:56:33 10 Q. Okay. Do you know what her position at UPS is?  
 11 **A. Yes.**  
 12 Q. And what's her position?  
 13 **A. It's an occupational health nurse --**  
 14 Q. Prior --  
 13:56:43 15 **A. -- supervisor. Sorry.**  
 16 Q. No, not at all.  
 17 Prior to return -- trying to return to  
 18 work in 2014, had you previously talked with Ms. Lorio?  
 19 **A. No.**  
 13:56:49 20 Q. So that would have been your first exposure to  
 21 her during your employment with UPS?  
 22 **A. Yes, sir.**  
 23 Q. Exhibit 5 at least indicates that on  
 24 February 3rd, 2014, you had requested a job-related  
 13:57:01 25 accommodation because of a medical condition, doesn't

<p style="text-align: right;">Page 114</p> <p>1 it?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Does that generally match your recollection as</p> <p>4 to the course of events in your attempts to return to</p> <p>13:57:13 5 work?</p> <p>6 <b>A. Please state that again.</b></p> <p>7 Q. Yes. Exhibit 5 indicates that you requested an</p> <p>8 accommodation on February 3rd, 2014.</p> <p>9 My question is: Do you have any reason to</p> <p>13:57:29 10 doubt that February 3rd, 2014 was the date you actually</p> <p>11 made that request to return to work?</p> <p>12 <b>A. I don't recall.</b></p> <p>13 Q. Does it generally match your recollection that</p> <p>14 sometime in early 2014 was when you tried to first</p> <p>13:57:43 15 return to work?</p> <p>16 <b>A. That is possibly correct.</b></p> <p>17 Q. And so as of the date that you notified UPS</p> <p>18 that you wanted to return to work, that's when you felt</p> <p>19 like you could perform what you had called your sales</p> <p>13:58:05 20 consultant role for the company; is that right?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And Exhibit 5 indicates that you felt like you</p> <p>23 needed an accommodation to perform your role for UPS; is</p> <p>24 that right?</p> <p>13:58:21 25 <b>A. Yes.</b></p>	<p style="text-align: right;">Page 116</p> <p>1 abilities throughout this time period?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay.</p> <p>4 <b>A. I -- I had conversations with human resources</b></p> <p>13:59:49 5 <b>and, of course, with Lenroe Hawthorne at the -- at the</b></p> <p>6 <b>checklist meeting, and Patricia.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. Didn't have any problem driving there or having</b></p> <p>9 <b>a conversation with them.</b></p> <p>14:00:05 10 Q. Okay. Now, Exhibit 5 is dated February 10th,</p> <p>11 2014, correct?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Okay. And at that point, you and UPS were</p> <p>14 already discussing --</p> <p>14:00:13 15 <b>A. Yes.</b></p> <p>16 Q. -- whether you get --</p> <p>17 <b>A. My return.</b></p> <p>18 Q. -- an accommodation and what it would be and so</p> <p>19 forth; is that correct?</p> <p>14:00:19 20 <b>A. Yes.</b></p> <p>21 Q. Okay. Let's go back to Exhibit 4,</p> <p>22 Mr. Gonzalez.</p> <p>23 Exhibit 4 was dated February 19th of 2014,</p> <p>24 wasn't it?</p> <p>14:00:31 25 <b>A. Yes.</b></p>
<p style="text-align: right;">Page 115</p> <p>1 Q. At that time, did you have any idea what type</p> <p>2 of accommodation would help you perform your job with</p> <p>3 the company?</p> <p>4 <b>A. I re -- At that time, I -- I relied on the --</b></p> <p>13:58:35 5 <b>my -- my doctors' opinions on that.</b></p> <p>6 Q. You would have needed to get their expertise in</p> <p>7 terms of defining what you could and couldn't do at that</p> <p>8 time. Is that fair?</p> <p>9 <b>A. That -- That's fair.</b></p> <p>13:58:45 10 Q. Okay. Do you know whether, as of February</p> <p>11 2014, you had any limitations on your cognitive ability?</p> <p>12 <b>A. I don't recall having cognitive issues. I -- I</b></p> <p>13 <b>recall there being potential cognitive issues due to</b></p> <p>14 <b>medication side effects.</b></p> <p>13:59:05 15 Q. And what kind of potential side effects do you</p> <p>16 recall there being issues with?</p> <p>17 <b>A. It can make you sleepy, make you fatigued --</b></p> <p>18 <b>feel fatigued. I don't recall any -- any other</b></p> <p>19 <b>specific --</b></p> <p>13:59:31 20 Q. Okay. Okay.</p> <p>21 <b>A. -- right now.</b></p> <p>22 Q. You -- You don't recall actually suffering any</p> <p>23 of those side effects?</p> <p>24 <b>A. No.</b></p> <p>13:59:37 25 Q. You felt like you had your full cognitive</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. So Exhibit 4 actually was created by</p> <p>2 Dr. Martinez nine days after Ms. Lorio's already</p> <p>3 e-mailing you about your potential to return to work; is</p> <p>4 that right?</p> <p>14:00:45 5 <b>A. Nine days after -- Yes. Those dates, yes.</b></p> <p>6 Q. And earlier, I think we agreed that on</p> <p>7 Exhibit 4, Dr. Martinez said that as of February 19th,</p> <p>8 2014, you had, quote, no ability to work, end quote. Is</p> <p>9 that right?</p> <p>14:00:57 10 <b>A. That's right.</b></p> <p>11 Q. Okay. And when I look at the first page of</p> <p>12 Exhibit 4 -- There you go. Previously we had looked</p> <p>13 down at where, under Section 3F, Dr. Martinez indicated</p> <p>14 that as of February 19th, 2014, you were taking</p> <p>14:01:17 15 Percocet. Is that right?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Okay. Right below where Dr. Martinez has</p> <p>18 written "Percocet," hasn't Dr. Martinez also written</p> <p>19 that the impairment from your medication includes</p> <p>14:01:31 20 mentation and ability to make decisions?</p> <p>21 <b>A. Yes. That's what he wrote.</b></p> <p>22 Q. Dr. Martinez is indicating that basically your</p> <p>23 thinking ability is affected by the medications you're</p> <p>24 taking, isn't he?</p> <p>14:01:43 25 MR. CRANE: Objection; form.</p>



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1 THE WITNESS: I -- I'm not sure exactly  
2 what Dr. Martinez is thinking when he wrote that.  
3 Q. (By Mr. Barbour) It doesn't appear to you that  
4 Dr. Martinez is indicating that you have mentation  
14:01:55 5 impairment as of February 19th, 2014?  
6 MR. CRANE: Objection; form.  
7 THE WITNESS: I don't understand the term  
8 "mentation" or Dr. Martinez's definition of it.  
9 Q. (By Mr. Barbour) Do you have any understanding  
14:02:09 10 as to what the word "mentation" means?  
11 **A. Not for -- for certain, no.**  
12 Q. Do you recall a meeting with Dr. Martinez just  
13 one month later, in March of 2014?  
14 **A. Offhand, no. I did meet with him, like,**  
14:02:47 15 **monthly. I --**  
16 Q. Well, it was approximately monthly that you  
17 were meeting with him at that point?  
18 **A. Approximately.**  
19 Q. What other medications were you taking around  
14:02:57 20 this period of time, to the best of your recollection?  
21 **A. Nefazodone, Silenor, clonazepam. And as far as**  
22 **I can recall, that's it.**  
23 Q. Okay. Let me hand you what I'll mark as  
24 Exhibit 6 to your deposition, Mr. Gonzalez.  
14:03:29 25 (Exhibit 6 marked.)

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1 Q. (By Mr. Barbour) Exhibit 6 appears to be a  
2 doctor's report from Dr. Martinez dated March 28th of  
3 2014. And I can help you through that, if you'd like  
4 to.  
14:03:51 5 **A. I see it. Thank you.**  
6 Q. You see it? Does that --  
7 **A. Yes.**  
8 Q. Does that appear to be correct?  
9 **A. Yes.**  
14:03:55 10 Q. Is this a document that you recognize today?  
11 **A. I don't -- do not recall seeing this document.**  
12 Q. Okay. Down towards the bottom, the document  
13 reflects certain current medications that you were  
14 taking. Do you see that section?  
14:04:09 15 **A. I do.**  
16 Q. Okay. Down there, Dr. Martinez appears to have  
17 indicated that you were taking Flexeril, Percocet,  
18 Lyrica, Silenor, Nefazodone, Viibryd and Klonopin as of  
19 that time. Does that appear to be correct?  
14:04:25 20 **A. Yes.**  
21 Q. And does that generally rec -- match your  
22 recollection as to the medications that you were taking  
23 at that time?  
24 **A. Yes.**  
14:04:33 25 Q. I -- I may have asked this already, and I

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1 apologize if I did, Mr. Gonzalez, but is it your  
2 testimony that you never suffered any impairments or  
3 side effects from taking Percocet?  
4 **A. I -- I cannot say I have not had any side**  
14:05:01 5 **effects from Percocet.**  
6 Q. What kind of side effects do you recall  
7 suffering from taking Percocet?  
8 **A. Occasional drowsiness. I -- I really -- I**  
9 **don't recall very many side effects from the medication**  
14:05:31 10 **right offhand.**  
11 Q. Okay. What kind of medication was Flexeril?  
12 **A. Flexeril is a muscle -- a muscle relaxer.**  
13 Q. Did Flexeril ever cause you to have any  
14 confusions or problem with your speech or vision?  
14:05:45 15 **A. No.**  
16 Q. Did you ever have any hallucinations or lack of  
17 coordination because of taking Flexeril?  
18 **A. No, sir.**  
19 Q. How about Lyrica? What kind of medication is  
14:05:57 20 Lyrica?  
21 **A. Lyrica's a medication used to -- to help soothe**  
22 **nerves.**  
23 Q. Is it a painkiller?  
24 **A. No.**  
14:06:07 25 Q. Did you ever suffer any cognitive side effects

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1 from taking Lyrica?  
2 **A. No. Well -- No, I did not.**  
3 Q. Lyrica never caused you loss of concentration?  
4 **A. No.**  
14:06:25 5 Q. Lyrica never caused you to suffer a loss of  
6 focus?  
7 **A. No.**  
8 Q. And Lyrica never caused you to suffer a loss of  
9 information retention?  
14:06:35 10 **A. No.**  
11 Q. What about Silenor? What kind of medication is  
12 that?  
13 **A. It's a sleeping medication to help sleep.**  
14 Q. Is it a nerve pain medication?  
14:06:51 15 **A. No.**  
16 Q. Is it an antidepressant?  
17 **A. No.**  
18 Q. Did you ever suffer any emotional or cognitive  
19 impairments from taking Silenor?  
14:07:03 20 **A. No.**  
21 Q. What kind of medication is Nefazodone?  
22 **A. Nefazodone.**  
23 Q. Excuse me. Yes.  
24 **A. It's okay.**  
14:07:09 25 Q. Okay.

31 (Pages 118 to 121)

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1 **A. Nefazodone is a medication that -- that treats**  
 2 **depression and anxiety.**  
 3 Q. Did you have depression or anxiety issues as of  
 4 March 2014?  
 14:07:23 5 **A. Yes. I had it --**  
 6 Q. What --  
 7 **A. -- much sooner than that.**  
 8 Q. I apologize.  
 9 How much sooner did you have depression  
 14:07:33 10 and anxiety issues, to the best of your recollection?  
 11 **A. I can say I've been on anxiety and depression**  
 12 **medication for at least 20 years.**  
 13 Q. It's a -- Your depression would predate the  
 14 termination of your employment with UPS --  
 14:07:51 15 **A. Yes.**  
 16 Q. -- at the very least; is that correct?  
 17 **A. That's correct.**  
 18 Q. Am I pronouncing "Viibryd" correctly?  
 19 **A. Yes.**  
 14:07:59 20 Q. Okay. That's nice.  
 21 What kind of medication is Viibryd?  
 22 **A. It's the same as Nefazodone. It's an**  
 23 **antianxiety, antidepressant.**  
 24 Q. You say it's the same. Are they two  
 14:08:13 25 medications that treat the same condition?

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1 **A. Correct.**  
 2 Q. What about Klonopin? What kind of medication  
 3 is that?  
 4 **A. Klonopin is pretty much the equivalent of**  
 14:08:21 5 **Flexeril. It's a -- Like, it's really a competitor of**  
 6 **Flexeril. So I -- I was not taking them both at the**  
 7 **same time.**  
 8 Q. You would have been taking one or the other?  
 9 **A. One or the other, yes, sir.**  
 14:08:35 10 **(Exhibit 7 marked.)**  
 11 Q. (By Mr. Barbour) I'll hand you what I've marked  
 12 as Exhibit 7 to your deposition. And once again, I'll  
 13 ask you if you recognize this document, Mr. Gonzalez.  
 14 **A. Yes, sir, I do.**  
 14:08:53 15 Q. What is Exhibit 7?  
 16 **A. It's a function report that I submitted to**  
 17 **Social Security.**  
 18 Q. Is this written in your own handwriting?  
 19 **A. Yes, it is.**  
 14:09:03 20 Q. And it's several pages long, but when I go to  
 21 the very last page, 4357 in the lower right-hand corner,  
 22 is that your handwritten name --  
 23 **A. It is.**  
 24 Q. -- up there?  
 14:09:19 25 **A. Yes, sir.**

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1 Q. Does it appear that you completed this around  
 2 March 15th, 2014?  
 3 **A. Yes.**  
 4 Q. And you completed this in relationship to your  
 14:09:27 5 request for Social Security disability benefits; is that  
 6 right?  
 7 **A. Correct.**  
 8 Q. And you were doing your absolute best to be as  
 9 truthful and forthcoming with the Social Security  
 14:09:37 10 Administration as you could; is that right?  
 11 **A. Yes.**  
 12 Q. You wouldn't have written anything in here  
 13 that, to the best of your knowledge, wasn't accurate,  
 14 right?  
 14:09:45 15 **A. Correct.**  
 16 Q. Okay. And when I look up on that very last  
 17 page under No. 22, see where it says, "Do you currently  
 18 take any medicines for your illnesses, injuries or  
 19 conditions?"  
 14:09:59 20 **A. Yes.**  
 21 Q. Below that, you've written out the names of six  
 22 different medications; is that right?  
 23 **A. Yes.**  
 24 Q. When I look down, you -- you've written out  
 14:10:07 25 Lyrica as one of the medications you're taking at that

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1 time; is that right?  
 2 **A. Yes.**  
 3 Q. And earlier you told me that you never suffered  
 4 a loss of concentration, focus or retention as a result  
 14:10:17 5 of taking Lyrica, didn't you?  
 6 **A. I -- I did say that, and I -- in addition to**  
 7 **that, I do not -- I -- I stopped taking Lyrica because**  
 8 **of the side effects within -- I'd have to guess, within**  
 9 **a couple of weeks.**  
 14:10:37 10 Q. Within a couple of weeks of when?  
 11 **A. Of it being prescribed and me taking it.**  
 12 Q. When did you first begin taking Lyrica?  
 13 **A. I don't recall the date, but it was -- it was**  
 14 **prescribed by Dr. Martinez.**  
 14:10:49 15 Q. You wouldn't have written Lyrica as one of the  
 16 medications you were currently taking as of March 15th,  
 17 2014 if you weren't --  
 18 **A. Correct.**  
 19 Q. -- taking it at that time, then?  
 14:11:01 20 **A. I am not -- Yes. I have not taken Lyrica**  
 21 **since --**  
 22 Q. I understand.  
 23 **A. -- approximately that time.**  
 24 Q. And you told the Social Security Administration  
 14:11:09 25 that at that time you were taking Lyrica --

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1 A. Yes.  
 2 Q. -- and it did cause you a loss of  
 3 concentration, focus and retention; is that right?  
 4 A. That's correct.  
 14:11:15 5 Q. Okay. And was that an accurate statement, that  
 6 it did cause --  
 7 A. Yes.  
 8 Q. -- you those side effects?  
 9 A. Yes.  
 14:11:23 10 Q. So your earlier testimony, that Lyrica never  
 11 caused you to suffer a loss of concentration, focus or  
 12 attention, would be incorrect, wouldn't it?  
 13 A. It would be something I -- I did not recall  
 14 correctly.  
 14:11:35 15 Q. And you don't recall the date on which you  
 16 stopped taking Lyrica?  
 17 A. No.  
 18 Q. And also on Exhibit 7 don't you indicate that  
 19 your Percocet caused you lightheadedness?  
 14:11:47 20 A. Yes.  
 21 Q. And your clonazepam -- Am I pronouncing that  
 22 correctly?  
 23 A. Yes. Pretty close.  
 24 Q. Okay.  
 14:11:57 25 A. That's close. Yeah. That's -- I'd say it the

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1 same way, "clonazepam."  
 2 Q. Clonazepam. You told the Social Security  
 3 administration that your clonazepam use caused you  
 4 fatigue and loss of coordination. Don't you?  
 14:12:09 5 A. Yes, I did state that.  
 6 Q. And all those statements are accurate as to the  
 7 side effects of those various medications, aren't they?  
 8 A. "Anxious, irritable" ...  
 9 If I may have a moment to review this.  
 14:12:23 10 Q. Please.  
 11 A. It -- It looks like, as a -- and the name of  
 12 the medication and -- and the side effects I have --  
 13 That's correct. Lyrica. "Loss of concen" -- Okay.  
 14 "Fatigue and loss of coordination." Yeah.  
 14:13:21 15 The only one that I may change a little  
 16 bit is the Silenor, the one in the middle.  
 17 Q. Uh-huh.  
 18 A. It says, "Moody, anxious, irritable." Well,  
 19 Silenor is a sleep aid, so it doesn't make me moody,  
 14:13:39 20 anxious or irritable, but the -- some of those other  
 21 medications I take to -- to not be moody, anxious and  
 22 irritable.  
 23 Q. So as you look at it here today, your testimony  
 24 is that the side effects of the Silenor might not be  
 14:13:55 25 accurately written; is that right?

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1 A. It's -- Yeah. It's -- The side effects are  
 2 stated in my list, but it's not correlated directly to  
 3 Silenor.  
 4 Q. Okay. Okay. That -- That was a condition you  
 14:14:07 5 might have been experiencing but not necessarily as a  
 6 result of the Silenor?  
 7 A. Yes.  
 8 Q. Okay. But otherwise, with regard to the  
 9 remainder of those medications, you've named the  
 14:14:17 10 medicines and then the side effects you actually did  
 11 have because you were taking those medicines as of  
 12 March 15th, 2014?  
 13 A. Yes.  
 14 Q. Okay. I want to get back to your request for  
 14:14:27 15 accommodation, Mr. Gonzalez.  
 16 Ms. Lorio had given you some paperwork to  
 17 take to your doctor to help UPS process your request for  
 18 accommodation; is that right?  
 19 A. Yes.  
 14:14:39 20 Q. Do you recall that?  
 21 A. Yes.  
 22 Q. And I think you said that it was appropriate  
 23 for UPS to want to look through doctors' notes, try and  
 24 figure out --  
 14:14:47 25 A. Yes.

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1 Q. -- what you could and couldn't do; is that  
 2 right?  
 3 A. Right.  
 4 (Exhibit 8 marked.)  
 14:14:53 5 Q. (By Mr. Barbour) Okay. I'll hand you what I've  
 6 marked as Exhibit 8 to your deposition, Mr. Gonzalez.  
 7 Do you recognize Exhibit 8?  
 8 A. Yes.  
 9 Q. And what is Exhibit 8?  
 14:15:11 10 A. It's a request for medical information from  
 11 Mrs. Lorio.  
 12 Q. Okay. Did you provide this to one of your  
 13 doctors to have him or her complete it?  
 14 A. Yes, I did.  
 14:15:23 15 Q. Who did you provide it to?  
 16 A. To Dr. Raul Martinez.  
 17 Q. So when I look in the bottom right-hand corner  
 18 on Page 285, the very end --  
 19 A. Yes.  
 14:15:33 20 Q. -- that would be Dr. Martinez's signature; is  
 21 that right?  
 22 A. Yes, it is.  
 23 Q. Do you recall whether Dr. Martinez sent this  
 24 directly back to UPS or whether he gave it to you to  
 14:15:43 25 provide to UPS?

33 (Pages 126 to 129)

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1 **A. I don't recall.**  
 2 Q. Did you review this at any point while your  
 3 request for accommodation with UPS was being considered?  
 4 And when I say "this," I mean Exhibit 8.  
 14:15:57 5 **A. Did I review it prior to or review it when?**  
 6 Q. Let me review -- Let me rephrase that.  
 7 UPS was considering your request for  
 8 accommodation; is that right?  
 9 **A. Yes.**  
 14:16:05 10 Q. Did you look at your doctor's notes during  
 11 those conversations to see what your doctor indicated  
 12 your restrictions were?  
 13 **A. Yes, I did.**  
 14 Q. Okay. Did you think that Dr. Martinez had  
 14:16:15 15 incorrectly represented what you were capable of as of  
 16 that time?  
 17 **A. Do I think he incorrected -- incorrectly -- I**  
 18 **believe he wrote what he believed to be true --**  
 19 Q. Okay.  
 14:16:33 20 **A. -- of my condition.**  
 21 Q. And you never went to UPS and said,  
 22 "Dr. Martinez is wrong. I" --  
 23 **A. No, I did not.**  
 24 Q. -- "actually can do some things." Is that  
 14:16:41 25 right?

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1 **A. I -- Well, that's not necessarily true. I -- I**  
 2 **did have a conversation with Lenroe Hawthorne at the**  
 3 **checklist meeting about the things that I could do.**  
 4 Q. Okay. And we'll talk about the checklist  
 14:16:53 5 meeting in more detail --  
 6 **A. Okay.**  
 7 Q. -- but for right now...  
 8 During that checklist meeting, did you  
 9 think your doctor had misstated your physical or  
 14:17:01 10 cognitive impairments?  
 11 **A. No.**  
 12 Q. Okay.  
 13 **A. No.**  
 14 Q. When I look at Exhibit 8, under No. 1 on  
 14:17:13 15 Page 283, the second page of the document --  
 16 **A. Okay.**  
 17 Q. -- Dr. Martinez indicates that you are not able  
 18 to perform all of the functions of your position with  
 19 UPS; is that right?  
 14:17:25 20 **A. Yes. That's -- That's correct.**  
 21 Q. And under No. 2, Dr. Martinez indicates the  
 22 essential job functions that you're unable to perform;  
 23 is that right?  
 24 **A. That's correct.**  
 14:17:37 25 Q. And in particular, he says you're unable to do

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1 continuous repetitive movements of your upper  
 2 extremities and you have decreased ability to make  
 3 decisions due to medication prescribed.  
 4 **A. That's correct. That is what he wrote.**  
 14:17:55 5 Q. And just a second ago, when we looked at that  
 6 Social Security function report, you did indicate that  
 7 your Lyrica caused you to have loss of concentration,  
 8 focus and recollection; is that right?  
 9 **A. I -- I did state that, in addition to I stopped**  
 14:18:09 10 **taking it.**  
 11 Q. But you don't remember when you stopped taking  
 12 it, right?  
 13 **A. Right.**  
 14 Q. And under No. 3, Dr. Martinez writes, in part,  
 14:18:23 15 that you have de -- decreased ability of concentration,  
 16 on the second line, doesn't he?  
 17 **A. Yes, he did write that.**  
 18 Q. And earlier we discussed how the cognitive  
 19 ability to strategize and think and make decisions was  
 14:18:45 20 an essential function --  
 21 **A. Yes.**  
 22 Q. -- of the position you had with UPS; is that  
 23 right?  
 24 **A. Yes, sir, that's correct.**  
 14:18:51 25 Q. So when I look down below at No. 3A, at the

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1 bottom of Page 283, Mr. Gonzalez --  
 2 **A. Uh-huh.**  
 3 Q. -- the form asks Dr. Martinez, "For each  
 4 diagnosis or condition identified above, describe in  
 14:19:11 5 detail the extent of the restrictions and the known  
 6 expected duration of the restrictions."  
 7 Do you see where it asks that?  
 8 **A. I do.**  
 9 Q. Okay. And then, when we go to Page 284, hasn't  
 14:19:23 10 Dr. Martinez written, "Patient is currently unable to  
 11 work for four hours or greater due to inability to do  
 12 repetitive motions"?  
 13 **A. Correct.**  
 14 Q. And then he says that your diminished sleep  
 14:19:37 15 cycles have increased your pain perceptions; is that  
 16 right?  
 17 **A. That's right.**  
 18 Q. And you continue on medication for pain; is  
 19 that also right?  
 14:19:45 20 **A. Yes.**  
 21 Q. Okay. Dr. Martinez indicates that due to your  
 22 physical inability to do repetitive motions, you can't  
 23 work for more than four hours a day; is that right?  
 24 **A. He said for possible four hours a day, yes.**  
 14:19:59 25 Q. Okay. I mean, I guess, on -- on particularly

34 (Pages 130 to 133)

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1 bad days, you may not be able to work for four hours a  
 2 day?  
 3 **A. I -- That's possible.**  
 4 Q. And on very good days, you --  
 14:20:07 5 **A. I could work more.**  
 6 Q. -- potentially could --  
 7 **A. Yeah.**  
 8 Q. -- physically work more than four hours, right?  
 9 **A. That was the plan, yes.**  
 14:20:13 10 Q. As you read No. 3A, does Mr. Martinez indicate  
 11 anything to UPS about how long you can or cannot, for  
 12 example, make decisions during a workday?  
 13 **A. No, he does not. I don't -- I don't see where**  
 14 **he describes that or mentions that.**  
 14:20:31 15 Q. Under 3A, does Dr. Martinez provide UPS with  
 16 any information about how long you can concentrate  
 17 during a workday?  
 18 **A. No.**  
 19 Q. You would agree with me that as written on this  
 14:20:41 20 page, Dr. Martinez indicates that this four hours or  
 21 greater during a workday is targeted just at your  
 22 physical restrictions and inability to do repetitive  
 23 motions; is that right?  
 24 **A. Please repeat that.**  
 14:20:55 25 Q. Yeah. Dr. Martinez indicates that you're

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1 **speaking with HRSC, one of the service representatives**  
 2 **had told me that it can take at least a couple of weeks**  
 3 **before the OHS, occupational health --**  
 4 Q. Supervisor?  
 14:22:33 5 **A. -- nurse --**  
 6 Q. Yeah.  
 7 **A. -- supervisor, would process that paperwork.**  
 8 **So I remember that -- there being some**  
 9 **delays in doing that or -- and -- and I -- I don't**  
 14:22:47 10 **recall if it was in -- in coordinating the meeting there**  
 11 **was a delay of -- I can't say it was a delay or if it**  
 12 **was protocol.**  
 13 **There was a time period before the --**  
 14 **between the time I requested an accommodation and the**  
 14:23:05 15 **time there was a meeting, and then there was another**  
 16 **delay or another time period after the meeting. So I**  
 17 **don't know if it's supposed to be done within, you know,**  
 18 **three to five days, a week or I -- None of that was told**  
 19 **to me or specified to me. It just seemed to -- My**  
 14:23:25 20 **return-to-work date seemed to lapse.**  
 21 Q. Do you have any knowledge about what UPS was  
 22 considering internally, or do you know what discussions  
 23 were happening internally with regard to your request  
 24 during that time period?  
 14:23:39 25 **A. No, I do not.**

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1 unable to work four hours a day or greater, is that  
 2 right, under --  
 3 **A. Yes.**  
 4 Q. -- No. 3A?  
 14:21:05 5 But he says that that's due to your  
 6 inability to do repetitive motions.  
 7 **A. Yes.**  
 8 Q. He doesn't -- Dr. Martinez doesn't indicate,  
 9 under No. 3A, how long you can or cannot engage in  
 14:21:15 10 cognitive activities during an average workday. Is that  
 11 fair?  
 12 **A. Yes. He doesn't say anything about time**  
 13 **constraints for cognitive abilities.**  
 14 Q. Do you remember approximately when it was that  
 14:21:35 15 this list of medical information was provided to anybody  
 16 at UPS?  
 17 **A. It -- It should have been within a -- I**  
 18 **would -- I would estimate within a couple of weeks of**  
 19 **Dr. Martinez's receipt of it.**  
 14:21:53 20 Q. Okay. At any point, did you feel like your --  
 21 the process in which UPS was talking to you about your  
 22 accommodation dragged on unduly long?  
 23 **A. Yes.**  
 24 Q. And why do you feel like it took too long?  
 14:22:05 25 **A. Well, for -- for one, Mr. -- Mr. -- Well, after**

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1 Q. Did you --  
 2 **A. I thought that they were working on -- I'm**  
 3 **sorry.**  
 4 Q. No, you're fine.  
 14:23:45 5 **A. I thought they were working on my return to**  
 6 **work.**  
 7 Q. Okay. Did you ever complain to anybody that  
 8 you felt like the process was dragging out or taking too  
 9 long?  
 14:23:53 10 **A. I did.**  
 11 Q. Who did you complain to?  
 12 **A. Mr. Lenroe Hawthorne.**  
 13 Q. Okay. What was Mr. Hawthorne's -- Well, let me  
 14 ask you this: Did you complain by e-mail or verbally  
 14:24:03 15 somehow?  
 16 **A. It was verbally.**  
 17 Q. Okay. And do you recall approximately when in  
 18 this process you complained to Mr. Hawthorne that the  
 19 process was dragging out?  
 14:24:11 20 **A. It may have been around either Sep --**  
 21 **September, October. It was -- Hang on a second. It**  
 22 **was -- Give me a moment to think of the timeline.**  
 23 **I think I -- I -- I re -- I know it's in**  
 24 **the EEOC discrimination file of that date that I**  
 14:24:41 25 **mentioned, so it was around that time that I had**

35 (Pages 134 to 137)

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1 mentioned I had spoke with Mr. Hawthorne --  
 2 Q. Okay.  
 3 A. -- and what he had told me.  
 4 Q. And you had submitted a few forms to the EEOC,  
 14:24:53 5 or a few statements, in relationship to --  
 6 A. Yes, I had.  
 7 Q. -- to your charge of discrimination?  
 8 A. Yes.  
 9 Q. And it's your testimony that the date on which  
 14:24:59 10 you say you had the conversation with Mr. Hawthorne  
 11 about the process dragging out is somewhere in those  
 12 documents?  
 13 A. Yes. In those documents and -- Yes. Correct.  
 14 Q. Okay.  
 14:25:07 15 (Page 9 marked.)  
 16 Q. (By Mr. Barbour) I'll show you what I've marked  
 17 as Exhibit 9 to your deposition, Mr. Gonzalez.  
 18 And do -- is this an e-mail you received  
 19 per Mr. Hawthorne?  
 14:25:41 20 A. I -- I re -- Yes, it is.  
 21 Q. And is this an e-mail you received in  
 22 relationship --  
 23 A. I -- The reason I -- I'm sorry. The reason I  
 24 hesitated is because I believe I also received a copy in  
 14:25:57 25 an overnight letter from UPS.

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1 Q. Okay. You may have received it in two  
 2 different ways --  
 3 A. Yes.  
 4 Q. -- is that correct?  
 14:26:05 5 A. Yes.  
 6 Q. Okay. And Mr. Gonzalez is giving you some  
 7 documents that need to be completed so that UPS can  
 8 fully consider your request for accommodation; is that  
 9 right?  
 14:26:13 10 A. Correct.  
 11 Q. And that is sent to you on April 9th, I believe  
 12 it is, two thousand -- April 7th, 2014?  
 13 A. April 7th.  
 14 Q. And the e-mail address that it goes to,  
 14:26:31 15 rong@live.com, is that your personal e-mail address?  
 16 A. Yes, sir.  
 17 Q. Do you have that e-mail address today?  
 18 A. I do.  
 19 (Exhibit 10 marked.)  
 14:26:43 20 Q. (By Mr. Barbour) And I'll hand you Exhibit 10,  
 21 Mr. Gonzalez. Do you recognize Exhibit 10?  
 22 A. Yes, sir.  
 23 Q. What is Exhibit 10?  
 24 A. It's the accomodation checklist.  
 14:27:19 25 Q. The first two pages of Exhibit 10 are actually

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1 in your own handwriting, aren't they?  
 2 A. Yes, they are.  
 3 Q. And at the bottom of Page 293, that's your  
 4 signature; is that right?  
 14:27:29 5 A. That's correct.  
 6 Q. And this is dated April 9th, 2014, isn't it?  
 7 A. Yes, sir.  
 8 Q. So this would be two days after Mr. Hawthorne  
 9 sent you the e-mail attaching the blank checklist,  
 14:27:39 10 right?  
 11 A. Yes.  
 12 Q. Okay. Did you feel like Mr. Hawthorne provided  
 13 you with adequate time to complete the ADA checklist?  
 14 A. Yes.  
 14:27:49 15 Q. When I look at the first page of Exhibit 10,  
 16 No. 1 asks you what your current job at UPS is, doesn't  
 17 it?  
 18 A. Yes.  
 19 Q. And under No. 1, is that your handwriting where  
 14:28:03 20 it says, "Specialist, enterprise account representative,  
 21 the UPS Stores"?  
 22 A. Yes.  
 23 Q. Earlier we had some discussion about what your  
 24 job title was --  
 14:28:13 25 A. Uh-huh.

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1 Q. -- as of the time you went out on leave in  
 2 April of 2013, and you had described yourself as a  
 3 franchise sales consultant.  
 4 Do you recall that testimony?  
 14:28:21 5 A. Yes.  
 6 Q. Okay. And you had said that you thought that  
 7 an enterprise account representative was a salaried  
 8 position that you had never held with the company. And  
 9 I'm just asking if you recall that that was your  
 14:28:33 10 testimony at that time.  
 11 A. I recall, yes.  
 12 Q. Okay. Does Exhibit 10 refresh your  
 13 recollection as to what your job title with UPS would  
 14 have been as of 2013 and 2014?  
 14:28:41 15 A. What -- What it tells me and reminds me of is  
 16 what I testified earlier, that an enterprise account  
 17 representative is an inside sales rep that has accounts  
 18 that have sales volume of \$50,000 or more a year of  
 19 revenue.  
 14:29:07 20 The franchise sales consultant, which is  
 21 also a specialist, was a new position created by UPS for  
 22 the UPS Stores.  
 23 Q. Okay. I guess my question, Mr. Gonzalez, is:  
 24 If you believe and believed, as of 2014, that your title  
 14:29:25 25 was franchise sales consultant --



<p style="text-align: right;">Page 142</p> <p>1       <b>A. Uh-huh.</b></p> <p>2       Q. -- why didn't you write that under No. 1?</p> <p>3       <b>A. Probably because the information I was</b></p> <p>4       <b>receiving from UPS was giving me that title of</b></p> <p>14:29:39 5       <b>enterprise account representative and not franchise</b></p> <p>6       <b>sales consultant.</b></p> <p>7       Q. So UPS might have still had you classified</p> <p>8       under this enterprise account representative job title?</p> <p>9       <b>A. More -- More than likely, yes.</b></p> <p>14:29:51 10       Q. Okay. And I'm really not trying to split</p> <p>11       hairs. I'm just trying to get some common</p> <p>12       understanding --</p> <p>13       <b>A. No. I --</b></p> <p>14       Q. -- as to what your --</p> <p>14:29:53 15       <b>A. I understand, and it's --</b></p> <p>16       Q. -- job title was at that time.</p> <p>17       <b>A. And it's kind -- And I'm sorry to interrupt,</b></p> <p>18       <b>but it is --</b></p> <p>19       Q. You're fine.</p> <p>14:29:59 20       <b>A. -- it is a little confusing. I know UPS would</b></p> <p>21       <b>be able to, I would think, confirm what I'm saying is</b></p> <p>22       <b>accurate.</b></p> <p>23       Q. Okay. Regardless of what your job title was --</p> <p>24       You remember we had a brief protracted discussion</p> <p>14:30:13 25       earlier about what your job responsibilities were?</p>	<p style="text-align: right;">Page 144</p> <p>1       Q. And -- And there's -- there's a -- there's a</p> <p>2       lengthy answer there. In particular, I'm looking at the</p> <p>3       third line that begins with "pain medication."</p> <p>4       Do you see where I'm at?</p> <p>14:31:15 5       <b>A. I do.</b></p> <p>6       Q. Did you write, in response to No. 2, "Pain</p> <p>7       medication side effects affect retention, focus,</p> <p>8       concentration and the ability to make decisions"?</p> <p>9       <b>A. I did.</b></p> <p>14:31:25 10       Q. And did you write that depression, anxiety and</p> <p>11       insomnia also have an impact?</p> <p>12       <b>A. I did.</b></p> <p>13       Q. Okay. And did that accurately represent your</p> <p>14       medical restrictions, at least as to your cognitive</p> <p>14:31:39 15       impairments, as of April 9th, 2014?</p> <p>16       <b>A. Yes. At that time, that's -- that's -- that is</b></p> <p>17       <b>what I wrote down, and that's per what my -- my</b></p> <p>18       <b>physicians also had stated.</b></p> <p>19       Q. And No. 3 asks you to describe the</p> <p>14:32:05 20       accommodations you believe would permit you to perform</p> <p>21       the essential functions of your job; is that right?</p> <p>22       <b>A. Yes.</b></p> <p>23       Q. And you've got a long answer here. You can</p> <p>24       either read that or tell me, I guess. What -- What</p> <p>14:32:15 25       accommodations did you request from UPS?</p>
<p style="text-align: right;">Page 143</p> <p>1       <b>A. Uh-huh.</b></p> <p>2       Q. You remember that con -- discussion?</p> <p>3       <b>A. Yes.</b></p> <p>4       Q. Regardless of what your job title was, that</p> <p>14:30:19 5       doesn't change what your responsibilities were at that</p> <p>6       time; is that right?</p> <p>7       <b>A. That is right.</b></p> <p>8       Q. Okay. Now, Pages 292 and 293 of Exhibit 10 are</p> <p>9       written in your handwriting; is that right?</p> <p>14:30:29 10       <b>A. Yes, sir.</b></p> <p>11       Q. And you did your best to be accurate in</p> <p>12       responding to these questions; is that right?</p> <p>13       <b>A. Yes, I did.</b></p> <p>14       Q. And you knew that UPS would re -- rely in part</p> <p>14:30:41 15       on your responses in deciding whether or not you were</p> <p>16       eligible for a reasonable accommodation; is that</p> <p>17       correct?</p> <p>18       <b>A. Yes, I -- I hope so.</b></p> <p>19       Q. I'm looking under No. 2, Mr. Gonzalez.</p> <p>14:30:53 20       <b>A. No. 2. Okay.</b></p> <p>21       Q. And No. 2 asks you to identify all the medical</p> <p>22       conditions you believe affect your ability to perform</p> <p>23       the essential functions of your current job; is that</p> <p>24       correct?</p> <p>14:31:05 25       <b>A. Yes.</b></p>	<p style="text-align: right;">Page 145</p> <p>1       <b>A. You want me to just read it?</b></p> <p>2       Q. Sure.</p> <p>3       <b>A. "Ergonomic workstation, repetitive" -- "reduced</b></p> <p>4       <b>repetitive tasks, interrupt tasks with other duties,</b></p> <p>14:32:31 5       <b>allow work from home, part-time work, allow phone calls</b></p> <p>6       <b>during work hours to doctors and others for support,</b></p> <p>7       <b>allow time off for medical treatment, allow more</b></p> <p>8       <b>frequent breaks, reduce physical exertion, allow a</b></p> <p>9       <b>self-paced workload, work independently or in a" -- "in</b></p> <p>14:32:55 10       <b>a small group and an environment that is less noisy" --</b></p> <p>11       <b>or "not noisy, one to two more breaks in the morning and</b></p> <p>12       <b>afternoon to take medication and relieve any stress on</b></p> <p>13       <b>my body."</b></p> <p>14       Q. In terms of the request for part-time work, to</p> <p>14:33:15 15       the best of your recollection, does UPS have a permanent</p> <p>16       part-time ISR position?</p> <p>17       <b>A. A permanent -- To the -- I -- To the best of my</b></p> <p>18       <b>recollection -- Part-time?</b></p> <p>19       Q. Yes, sir.</p> <p>14:33:27 20       <b>A. UPS -- At my location --</b></p> <p>21       Q. Yes.</p> <p>22       <b>A. -- or in the district?</b></p> <p>23       Q. Well, let's -- let's start with your location.</p> <p>24       <b>A. Okay. At my location, there's -- I know</b></p> <p>14:33:41 25       <b>there's part-time jobs or work that I've done, but as</b></p>

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1 far as permanent part-time as an ISR, I am not sure.  
 2 Q. Okay. And I guess my question would be:  
 3 Can -- Can you name one employee who's worked a  
 4 permanent part-time ISR schedule?  
 14:34:01 5 A. I cannot name one employee. I -- I can  
 6 still -- I can say that I had worked, while I was in  
 7 growth group, for another supervisor in a part --  
 8 part-time role.  
 9 Q. Okay. We'll get to that in one second.  
 14:34:19 10 You know anybody who's worked a permanent  
 11 part-time schedule in an account representative --  
 12 enterprise account representative position at UPS?  
 13 A. No, not to my knowledge.  
 14 Q. Do you know anybody who worked a permanent  
 14:34:33 15 part-time schedule in the franchise sales consultant  
 16 position?  
 17 A. Not to my knowledge.  
 18 Q. You said you worked a part-time schedule in the  
 19 growth group; is that right?  
 14:34:43 20 A. Yes.  
 21 Q. Okay. When did you work a part-time schedule  
 22 in the growth group?  
 23 A. There is -- Whenever there is a -- When I  
 24 worked for Grace Eason, other supervisors needed help in  
 14:34:59 25 their group, and they asked me to go work temporarily or

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1 part-time, fill in for an employee that was out.  
 2 Q. An employee who was out on vacation or leave,  
 3 for example?  
 4 A. Yes.  
 14:35:15 5 Q. Okay.  
 6 A. So that was -- that was one case.  
 7 Q. But when you were filling in for that employee  
 8 temporarily, you still would have been working in that  
 9 role for eight hours a day; is that right?  
 14:35:29 10 A. No. I had worked in that role -- It was not a  
 11 full day. It may have been a couple of hours; may have  
 12 been a few hours.  
 13 Q. Okay. So when you worked in growth group, you  
 14 say you had a part-time position filling in for folks  
 14:35:45 15 who are out on vacation or leave. Any other time you  
 16 worked a part-time --  
 17 A. No.  
 18 Q. -- schedule at UPS?  
 19 A. No.  
 14:35:51 20 Q. Okay. As of April 2014, do you know whether  
 21 there were any vacancies for ISR positions in the growth  
 22 group in San Antonio?  
 23 A. I would assume, yes.  
 24 Q. Why would you assume that?  
 14:36:15 25 A. Because they are constantly -- Well, I say

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1 "constantly." The time I had been there, they had  
 2 always been hiring.  
 3 Q. Always hiring?  
 4 A. ISRs.  
 14:36:25 5 Q. Okay. So you would assume that there would be  
 6 an opening in the growth group.  
 7 I guess my question is: Can you state  
 8 with certainty here today that there was a vacancy  
 9 existing in the growth group in April of 2014?  
 14:36:43 10 A. With nearly 100 percent certainty, yes.  
 11 Q. And what's that based on?  
 12 A. Based on my past experience of working for UPS  
 13 and there being a growth group.  
 14 Q. Based on the fact that UPS -- I think was your  
 14:36:57 15 words -- was almost always hiring ISRs?  
 16 A. Yes.  
 17 Q. Okay. So it's based on the assumption that  
 18 that was --  
 19 A. That the --  
 14:37:05 20 Q. -- more or less what was always happening?  
 21 A. It's -- It's based on the attrition that I  
 22 noticed that they were always -- that they were --  
 23 always had a group of new recruits and that there was  
 24 often -- very often advertising for ISRs.  
 14:37:19 25 Q. Okay. As of April 2014, you had been out on

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1 leave for a year, hadn't you?  
 2 A. Yes, sir.  
 3 Q. You hadn't even set foot inside the Summit  
 4 facility during that year, had you?  
 14:37:31 5 A. During that year -- With the exception to the  
 6 checklist?  
 7 Q. Yes.  
 8 A. Not that I recall, no.  
 9 Q. Okay. So you don't have any personal knowledge  
 14:37:41 10 as to whether new people were being brought on board or  
 11 people were leaving during that year from April of 2013  
 12 to April of 2014, do you?  
 13 A. I -- I -- Based on the record, I would say  
 14 they -- they do, but I don't have any factual knowledge,  
 14:37:57 15 but I'm sure that could be found out.  
 16 Q. Okay. Your testimony that there probably was a  
 17 vacancy in the growth group was based on what you  
 18 observed prior to April of 2013?  
 19 A. Yes. My experience prior to that time, yes.  
 14:38:13 20 Correct.  
 21 Q. Were there any other part-time positions in the  
 22 San Antonio UPS operations that you felt you could  
 23 perform as of April 2014?  
 24 A. None that I'm aware of. I -- UPS does a lot of  
 14:38:39 25 hiring from -- in -- internally that -- so I don't have

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1 access to -- to all of the -- all the postings.  
 2 Q. And I understand that. All I'm asking you is  
 3 what your personal knowledge is as you sit here today.  
 4 A. Uh-huh.  
 14:38:59 5 Q. I know UPS obviously has the inside sales  
 6 facility that you worked at. Is that right?  
 7 A. Yes, sir.  
 8 Q. And that is a separate building way across town  
 9 from where the actual small package center was; is that  
 14:39:11 10 correct?  
 11 A. From -- Yeah. From the major distribution  
 12 center --  
 13 Q. Right.  
 14 A. -- yes.  
 14:39:13 15 Q. Okay. Due to the physical nature of work  
 16 there --  
 17 A. Uh-huh.  
 18 Q. -- you probably wouldn't have been able to do  
 19 many of the jobs at the small package facility on  
 14:39:21 20 account of your lifting restrictions. Is that fair?  
 21 A. Yes.  
 22 Q. Okay. And as -- just as you sit here today,  
 23 you don't have any personal knowledge as to any other  
 24 vacant positions in U -- within UPS that you would have  
 14:39:33 25 been able to perform in April of 2014?

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1 A. I know there's administrative jobs at UPS at  
 2 Summit Parkway that some people did, but I don't know  
 3 the job titles.  
 4 Q. I understand that.  
 14:39:53 5 Do you know whether the -- any of those  
 6 administrative jobs were vacant as of April 2014?  
 7 A. No, I do not.  
 8 Q. Now, you told me earlier that at the time you  
 9 went out on leave in April 2013 you had approximately  
 14:40:13 10 1,200 to 1,500 UPS or UPS Store-equivalent customers  
 11 assigned to you. Is that right?  
 12 A. Yes. Roughly, yes. It was subject to change.  
 13 Q. And I'm sure it did. I'm sure it did.  
 14 But somewhere within that range was how  
 14:40:25 15 many customers were assigned to you?  
 16 A. Yes.  
 17 Q. Is that fair?  
 18 A. Uh-huh.  
 19 Q. And you said that other than periods when  
 14:40:31 20 people would go out on leave or go on vacation, people  
 21 in your position didn't cover other people's accounts  
 22 and there wasn't fluidity as to those assignments; is  
 23 that correct?  
 24 A. That they did not cover other people's  
 14:40:45 25 accounts?

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1 Q. Yes, sir.  
 2 A. I -- I could tell you the times when people did  
 3 cover people's account -- accounts is when somebody was  
 4 out on -- for whatever issue, or vacation; other perhaps  
 14:40:59 5 would cover the phones.  
 6 Q. Yes, sir. And I -- I --  
 7 A. Yeah. I --  
 8 Q. Well, I --  
 9 A. So I'm not sure if that was the same question.  
 14:41:05 10 I'm sorry.  
 11 Q. No, no, no. I -- I think -- I think we're on  
 12 the same page, but let's make it clear.  
 13 A. Okay.  
 14 Q. When -- When folks would go out on leave or  
 14:41:11 15 vacation, we wouldn't just ignore the 1,200 to 1,500  
 16 clients --  
 17 A. No. No. Yes.  
 18 Q. -- that were assigned to them, right?  
 19 A. That's correct.  
 14:41:17 20 Q. Somebody would step in and cover for it while  
 21 that person was out on leave, right?  
 22 A. Yes.  
 23 Q. But just on a day-to-day basis, you wouldn't,  
 24 for example, be expected to cover a few hundred of the  
 14:41:27 25 customers assigned to somebody else who was working that

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1 day?  
 2 A. No.  
 3 Q. Okay. Your customers were your customers, and  
 4 other people in your position had their customers; is  
 14:41:35 5 that correct?  
 6 A. That's correct.  
 7 Q. Okay. You said there were only six hundred --  
 8 or six other people -- Did you say there were six other  
 9 people in your position in April of 2013 or only six  
 14:41:47 10 total?  
 11 A. I believe it was six total.  
 12 Q. Okay. So you were one of those six?  
 13 A. Yes.  
 14 Q. Okay. Now, did you also ask UPS for the  
 14:41:53 15 ability to work part time in the position you held as of  
 16 April 2014?  
 17 A. Did I ask them to work part time in the same  
 18 role?  
 19 Q. Yes, sir.  
 14:42:03 20 A. I didn't even specify what role.  
 21 Q. Okay. Well, let's say that you -- Let me  
 22 strike that.  
 23 Do you think it would have been possible  
 24 to perform what you've called your franchise sales  
 14:42:17 25 consultant job working only four rather than eight hours

<p style="text-align: right;">Page 154</p> <p>1 a day?</p> <p>2 <b>A. I would have preferred to work in the growth</b></p> <p>3 <b>group.</b></p> <p>4 Q. Okay. I understand that.</p> <p>14:42:31 5 My question to you is: Do you believe you</p> <p>6 would have been able to perform the essential functions</p> <p>7 of what you've called your functional sales consultant</p> <p>8 job working only four hours a day?</p> <p>9 <b>A. Could I have done that job four -- Yes, I could</b></p> <p>14:42:45 10 <b>have.</b></p> <p>11 Q. Do you believe you could have serviced all</p> <p>12 1,200 to 1,500 of your clients working only four hours a</p> <p>13 day?</p> <p>14 <b>A. Not at the same metrics.</b></p> <p>14:42:55 15 Q. You wouldn't have been able to keep up the same</p> <p>16 metrics or same quality of service working a truncated</p> <p>17 schedule?</p> <p>18 <b>A. The quality of service would have been there</b></p> <p>19 <b>for each cust -- for the customers I called on, but I</b></p> <p>14:43:09 20 <b>may not have been able to get to all customers.</b></p> <p>21 Q. When you say you wouldn't have been able to get</p> <p>22 to all customers, if a customer e-mails a complaint, for</p> <p>23 example --</p> <p>24 <b>A. Uh-huh.</b></p> <p>14:43:17 25 Q. -- and -- or a concern and you're working four</p>	<p style="text-align: right;">Page 156</p> <p>1 franchise sales consultant role --</p> <p>2 <b>A. Uh-huh.</b></p> <p>3 Q. -- working four or eight hours a day, but you</p> <p>4 do agree that you would have some time management issues</p> <p>14:44:57 5 working that position only part-time; is that correct?</p> <p>6 <b>A. I would have some issues calling all the -- all</b></p> <p>7 <b>the customers in my account base as part of the metrics</b></p> <p>8 <b>that UPS provides for -- for each ISR in that role.</b></p> <p>9 Q. And so in your opinion, would it probably have</p> <p>14:45:19 10 been necessary to move some of your customers on to</p> <p>11 other people in your position to make sure that</p> <p>12 everybody was called, for example?</p> <p>13 <b>A. Yeah. There -- There would have to be some --</b></p> <p>14 <b>I'm sure they'd have to shift possibly some accounts</b></p> <p>14:45:33 15 <b>to -- to split it up.</b></p> <p>16 Q. So that would have increased the number -- Let</p> <p>17 me strike that.</p> <p>18 Moving you to a part-time role in your</p> <p>19 franchise sales consultant position in your opinion</p> <p>14:45:47 20 would have increased the number of customers assigned to</p> <p>21 the other five people in your position; is that correct?</p> <p>22 <b>A. That's -- That's certainly possible, yes.</b></p> <p>23 Q. Well, somebody would have needed to service --</p> <p>24 <b>A. Some -- Somebody --</b></p> <p>14:45:57 25 Q. -- those clients, right?</p>
<p style="text-align: right;">Page 155</p> <p>1 hours a day, you might not be able to get to that</p> <p>2 concern within that truncated time schedule. Is that</p> <p>3 fair?</p> <p>4 <b>A. That's -- No, that's not necessarily true.</b></p> <p>14:43:27 5 Q. Then walk me through it. When -- When you say</p> <p>6 you couldn't meet the same metrics, what -- what do you</p> <p>7 mean by that?</p> <p>8 <b>A. Metrics of if there's a program going on that,</b></p> <p>9 <b>say, it's an international service pro -- promotion or</b></p> <p>14:43:45 10 <b>project that we're working on and we've got a certain</b></p> <p>11 <b>timeline to -- to call each franchisee and put it in</b></p> <p>12 <b>a -- you know, in -- in TEAMS as a completed task, it</b></p> <p>13 <b>would have taken me longer to -- to get through all the</b></p> <p>14 <b>accounts.</b></p> <p>14:44:05 15 <b>And when I say "quality of service," when</b></p> <p>16 <b>I -- I mentioned I wouldn't be able to give them -- I'd</b></p> <p>17 <b>be able to give each customer that I contacted a quality</b></p> <p>18 <b>of service, but I wouldn't be able to get to them all.</b></p> <p>19 <b>And then the other piece of it is, if I</b></p> <p>14:44:23 20 <b>receive an urgent phone call or urgent e-mail, that's</b></p> <p>21 <b>part of my time manage -- management function to</b></p> <p>22 <b>identify who those people are and address their concerns</b></p> <p>23 <b>first. So it's a time management issue.</b></p> <p>24 Q. So earlier you had said that you felt like you</p> <p>14:44:47 25 could do your same position, what you called the</p>	<p style="text-align: right;">Page 157</p> <p>1 <b>A. Yeah. The -- All the accounts need to be</b></p> <p>2 <b>services.</b></p> <p>3 Q. And if you're only working four of eight hours</p> <p>4 a day, that leaves half your workday that's got to be</p> <p>14:46:07 5 done by somebody else, doesn't it?</p> <p>6 <b>A. I -- I would think so, yes. Somebody else</b></p> <p>7 <b>would have to pick up the slack for that.</b></p> <p>8 MS. KILGORE: I -- Excuse me. I need to</p> <p>9 take a break.</p> <p>14:46:17 10 MR. BARBOUR: Well, I suppose I said I'd</p> <p>11 allow a break as long as there wasn't a question</p> <p>12 pending, so that's fine.</p> <p>13 THE VIDEOGRAPHER: The time is 2:46 p.m.,</p> <p>14 and we are off the record.</p> <p>14:46:29 15 (Off the record.)</p> <p>16 THE VIDEOGRAPHER: The time is 2:56 p.m.,</p> <p>17 and we are on the record.</p> <p>18 Q. (By Mr. Barbour) Mr. Gonzalez, are you ready to</p> <p>19 proceed, sir?</p> <p>14:56:19 20 <b>A. Yes, sir.</b></p> <p>21 Q. Earlier we were discussing a checklist meeting</p> <p>22 with UPS. Do you recall that conversation?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And do you recall physically attending a</p> <p>14:56:29 25 meeting with Mr. Hawthorne to discuss your request for</p>

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1 accommodation?

2 **A. Yes.**

3 Q. And I think you specifically said that that

4 checklist meeting was the first time you had actually

14:56:41 5 been inside the Summit Parkway facility since you went

6 out on leave in April of 2013; is that right?

7 **A. Yes.**

8 Q. Was Ms. Patricia Lorio in attendance at that

9 checklist meeting?

14:56:57 10 **A. No.**

11 Q. Was she appearing telephonically --

12 **A. Yes.**

13 Q. -- at that meeting? Okay.

14 **A. Yes.**

14:57:01 15 Q. To the best of your knowledge, was there

16 anybody else participating either in person or

17 telephonically at that meeting?

18 **A. No.**

19 Q. Okay. Do you re -- have a pretty good

14:57:11 20 recollection of what was said at that checklist meeting?

21 **A. Yes, somewhat.**

22 Q. And if I told you that the meeting was held

23 sometime on or around April 10th, 2014, does that sound

24 right?

14:57:25 25 **A. It sounds right.**

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1 Q. What do you recall Mr. Hawthorne telling you

2 about your request for accommodation at that meeting?

3 **A. He told me that what we're going to do is we're**

4 **going to have a conference call with the occupational**

14:57:43 5 **health nurse supervisor and go through the checklist.**

6 Q. Okay. And did you, in fact, go through the

7 checklist?

8 **A. Yes, we did.**

9 Q. And earlier you had indicated that the

14:57:57 10 accommodation you were requesting was a transfer to a

11 part-time position. Is that right? Or one of the many

12 accommodations you were requesting was transfer to a

13 part-time position.

14 **A. Yes. I requested to -- to start work at a**

14:58:11 15 **part-time position, return to work working part time.**

16 Q. Did Mr. Hawthorne indicate if UPS would approve

17 your request for a part-time position?

18 **A. He didn't indicate -- He -- I'm sorry. Say**

19 **that again. What...**

14:58:33 20 Q. Yeah. Did Mr. Hawthorne indicate whether UPS

21 would approve your request to move to a part-time

22 position?

23 **A. He did not say that, no.**

24 Q. Did he indicate that UPS would deny your

14:58:41 25 request for a part-time position?

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1 **A. He said he didn't think the legal department**

2 **would approve it or go for it.**

3 Q. And what do you specifically recall him saying

4 about the fact that the legal department wouldn't go for

14:58:53 5 it?

6 **A. He said because they wouldn't know what to pay**

7 **me and they hadn't done it for anybody else; if he did**

8 **it for me, they'd have to do it for everybody else.**

9 **That's -- Yeah.**

14:59:11 10 Q. And I want to make sure I understand.

11 Is that as close as you can recall? Are

12 you paraphrasing what he said, or are you attempting to

13 say as specifically as you can what Mr. Hawthorne told

14 you?

14:59:23 15 **A. I -- I'm -- I'm trying to recall exactly what**

16 **he told me in that -- after the checklist meeting.**

17 Q. Okay.

18 **A. And he said yes, definitely, he said he**

19 **would -- they would have to figure out how much to pay**

14:59:41 20 **me and, if they did that for me, they'd have to do it**

21 **for everybody else. He wasn't sure if the legal**

22 **department would go for it.**

23 **And I'm not -- that's pretty -- it's not**

24 **verbatim, but it's the -- that's the gist of the**

14:59:57 25 **statements.**

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1 Q. Okay. Do you recall, whether being paraphrased

2 or specifically, him saying anything else to you with

3 regard to your request for part-time work at that

4 checklist meeting?

15:00:11 5 **A. No.**

6 Q. And do you have Exhibit 10 in front of you,

7 Mr. Gonzalez?

8 **A. I do, yes, sir.**

9 Q. Okay. I'm looking down under No. 3. And we've

15:00:19 10 spent a fair bit of time here today discussing cognitive

11 impairments that you might have had as of April 2014.

12 **A. Uh-huh.**

13 Q. You recall that testimony, right?

14 **A. I do.**

15:00:27 15 Q. Under No. 3, you request an ergonomic

16 workstation; is that right?

17 **A. Yes.**

18 Q. You would agree with me that an ergonomic

19 workstation wouldn't accommodate any cognitive

15:00:39 20 impairments you had in April of 2014, would it?

21 **A. I -- I agree.**

22 Q. Okay. And you also asked to reduce repetitive

23 tasks, don't you?

24 **A. Yes, I did state re -- reduce repetitive tasks.**

15:00:57 25 Q. Okay. And that reduction of repetitive tasks

41 (Pages 158 to 161)

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1 is really addressed to your physical impairments, is it  
 2 not?  
 3 **A. Yes.**  
 4 Q. Yeah. Reducing your -- your repetitive tasks  
 15:01:07 5 itself wouldn't accommodate the cognitive impairments  
 6 that you might have had as of April 2014, would it?  
 7 **A. The repetitive tasks and the cognitive are,**  
 8 **yeah, two separate things.**  
 9 Q. Do you recall Ms. Lorio saying anything during  
 15:01:33 10 the April 10th, 2014 checklist meeting?  
 11 **A. I -- I did ask her a question.**  
 12 Q. What question did you ask her?  
 13 **A. I asked her if she was familiar with my**  
 14 **condition.**  
 15:01:45 15 Q. And what condition? Because it sounds like you  
 16 might have had more than one at that time.  
 17 **A. No. I specifically asked her if she was**  
 18 **familiar with RSD.**  
 19 Q. And what is -- All right. Can you tell me what  
 15:01:59 20 RSD stands for?  
 21 **A. It's reflex sympathetic dystrophy.**  
 22 Q. And is RSD related to CRPS?  
 23 **A. Yes, it is.**  
 24 Q. And you asked Ms. Lorio if she was familiar  
 15:02:13 25 with RSD --

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1 **A. Yes.**  
 2 Q. -- is that correct?  
 3 **A. I -- Yes. And I -- I did spell it out.**  
 4 Q. And why did you ask her if she was familiar  
 15:02:21 5 with your RSD?  
 6 **A. Because she's a nurse and I -- I wanted to make**  
 7 **sure she was familiar with my condition.**  
 8 Q. And what did she tell you?  
 9 **A. No, she does not know -- was not aware of it.**  
 15:02:33 10 Q. Did that bother you in any way that she wasn't  
 11 familiar with RSD?  
 12 **A. Yes.**  
 13 Q. Why is that?  
 14 **A. She wouldn't have a clear understanding of my**  
 15:02:47 15 **condition.**  
 16 Q. Okay. Do you know whether she did any research  
 17 on her own after that checklist meeting to learn more  
 18 about what RSD was?  
 19 **A. Possibly.**  
 15:02:57 20 Q. You just don't know, is that right --  
 21 **A. I do know.**  
 22 Q. -- what she --  
 23 **A. Well, I -- I --**  
 24 Q. -- what -- what she -- what she -- what she  
 15:03:03 25 did?

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1 **A. I can make a good assumption.**  
 2 Q. What would your assumption be?  
 3 **A. No.**  
 4 Q. Why would you assume that she didn't do any  
 15:03:11 5 research about your condition?  
 6 **A. Due to recent findings.**  
 7 Q. And what would those findings be?  
 8 **A. A deposition.**  
 9 Q. Her deposition that was held a few days ago?  
 15:03:29 10 **A. Yes.**  
 11 Q. Okay. So that -- So that's based on testimony  
 12 that she offered?  
 13 **A. Yes.**  
 14 Q. Okay. And you were in attendance in that  
 15:03:35 15 deposition?  
 16 **A. Correct.**  
 17 Q. Earlier you told me that you felt that  
 18 Dr. Martinez's note did spell out what your physical  
 19 restrictions were, though; is that right?  
 15:03:43 20 **A. Yes.**  
 21 Q. Okay. Earlier we had discussed this, quote,  
 22 unquote, no-restrictions practice or policy that  
 23 Ms. Elizondo had told you about previously; is that  
 24 right?  
 15:03:55 25 **A. Yes, sir.**

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1 Q. All right. It's fair to say that neither  
 2 Mr. Hawthorne nor Ms. Lorio ever told you that you  
 3 couldn't come back to work unless you had, quote, no  
 4 restrictions, unquote; is that right?  
 15:04:07 5 **A. I do not recall either one of them saying that,**  
 6 **no.**  
 7 Q. And neither one of them told you that you could  
 8 only come back if you were without restrictions --  
 9 **A. This is during --**  
 15:04:17 10 Q. -- period?  
 11 **A. -- during this accommodation checklist meeting**  
 12 **you're talking about?**  
 13 Q. Sure.  
 14 **A. No. There was not any -- any discussion other**  
 15:04:25 15 **than the questions on the checklist meeting.**  
 16 Q. Okay. Now, you specified checklist meeting  
 17 there.  
 18 Did -- Did Mr. Hawthorne or Ms. Lorio at  
 19 any other time tell you that you couldn't come back if  
 15:04:37 20 you had restrictions?  
 21 **A. No, they did not.**  
 22 Q. And, in fact, the whole point of the checklist  
 23 meeting was to look at what your restrictions were,  
 24 wasn't it?  
 15:04:51 25 **A. My understanding of the checklist was to see if**

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1 an accommodation could be made based on my -- the -- the  
 2 information on the checklist that --  
 3 Q. And accommodation of the restrictions that your  
 4 doctor had said you were under. Is that fair?  
 15:05:05 5 A. Correct. Yes, that's fair.  
 6 Q. So the fact that the checklist meeting was held  
 7 seems to suggest that UPS would consider at least  
 8 returning you to work with restrictions, wouldn't it?  
 9 A. I -- I would say that's fair if Ms. Lorio had  
 15:05:19 10 an understanding of my condition.  
 11 Q. You feel like the fact that Ms. Lorio -- Well,  
 12 explain that to me.  
 13 Why do you feel like Ms. Lorio saying she  
 14 wasn't familiar with your condition --  
 15:05:37 15 A. Well --  
 16 Q. -- indicates that you had no chance of  
 17 returning to work, if that's your testimony?  
 18 A. That is my testimony. That's part of it.  
 19 It -- If she doesn't understand the treatment or the --  
 15:05:49 20 yeah, the treatment of my condition, how can I expect  
 21 her to know what's -- what are possible accommodations?  
 22 Q. Okay. Dr. Martinez's note in February of 2014  
 23 earlier you said accurately represented your physical  
 24 and cognitive restrictions as of that time; is that  
 15:06:11 25 right?

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1 A. Yes.  
 2 Q. Okay. You provided that to UPS, didn't you?  
 3 A. Yes.  
 4 Q. And then this checklist meeting was held with  
 15:06:21 5 Ms. Lorio and with Mr. Hawthorne to evaluate whether  
 6 those restrictions prescribed by Dr. Martinez --  
 7 A. Uh-huh.  
 8 Q. -- could be accommodated in your sales  
 9 consultant role. Is that a fair statement?  
 15:06:31 10 A. That is a fair statement, and -- and -- and  
 11 what's also fair is she had a copy of my -- my health  
 12 records and she still didn't know anything about my  
 13 condition.  
 14 Q. Okay. But she had a copy of those records,  
 15:06:47 15 right?  
 16 A. As far as I know, yes.  
 17 Q. As far as you know. I -- I under --  
 18 To the best of your knowledge, she was  
 19 looking at your health records --  
 15:06:53 20 A. Yes, sir.  
 21 Q. -- is that right?  
 22 A. Yes.  
 23 Q. And those records spelled out what you could  
 24 and couldn't do?  
 15:06:57 25 A. They spelled out my medical condition.

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1 Q. Including what your restrictions were.  
 2 A. Including my RSD, or reflex sympathetic  
 3 dystrophy, complex regional pain syndrome and the  
 4 treatment.  
 15:07:09 5 So, yeah, it's -- it's -- it's unsettling  
 6 to know that an occupational nurse that is reviewing an  
 7 accommodation request did not know about my medical  
 8 condition.  
 9 Q. Well, she knew what -- I mean, did she ever  
 15:07:27 10 tell you, "I don't know what your restrictions are,  
 11 Mr. Gonzalez?"  
 12 A. No. She had -- She had the checklist, but she  
 13 didn't have any knowledge of my con -- medical  
 14 condition.  
 15:07:37 15 Q. And you said she had your medical file also, to  
 16 the best of your knowledge --  
 17 A. To the best of my --  
 18 Q. -- is that --  
 19 A. -- knowledge, she had...  
 15:07:43 20 Q. And the records that you had provided spelled  
 21 out what you could and could not do on a daily basis,  
 22 didn't they?  
 23 A. Yes, they did.  
 24 (Exhibit 11 marked.)  
 15:08:01 25 Q. (By Mr. Barbour) Okay. I'll hand you what I've

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1 marked as Exhibit 11 to your deposition, Mr. Gonzalez.  
 2 A. Okay.  
 3 Q. Do you recognize this document?  
 4 A. Yes, sir.  
 15:08:23 5 Q. And what is Exhibit 11?  
 6 A. It's an e-mail letter to me addressing the  
 7 denial of my request to return to work, stating they're  
 8 unaware of any available position at this time and that  
 9 me -- that are capable of performing the essential --  
 15:08:49 10 You want me to just read it, or...  
 11 Q. No. I'm just asking you just generally what  
 12 you understand Exhibit 11 to be.  
 13 A. A termination letter.  
 14 Q. Okay. I mean, does Exhibit 11 indicate that  
 15:08:59 15 you had been terminated from employment?  
 16 A. No, not this document.  
 17 Q. Okay. Does Exhibit 11 indicate that UPS has  
 18 decided that they're unable to grant your request for a  
 19 job-related accommodation?  
 15:09:11 20 A. Yes.  
 21 Q. This was sent to you on April 21st, 2014,  
 22 wasn't it?  
 23 A. Correct.  
 24 Q. And that would be approximately 11 days after  
 15:09:17 25 your checklist meeting with Mr. Hawthorne and Ms. Lorio,

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1 wouldn't it?

2 **A. Yes.**

3 Q. Did you respond to any of UPS' communications

4 indicating that your request for accommodation had been

15:09:39 5 denied?

6 **A. Yes. I re -- Prior to receiving this from**

7 **Mr. Hawthorne, I received an e-mail from I believe it**

8 **was HR, the service center, and it was stating very**

9 **similar wording, that my request for accommodations --**

15:10:15 10 **that -- that -- pretty much the same letter, verbiage,**

11 **the same meaning.**

12 Q. Okay.

13 **A. It was prior to the -- Lenroe's letter.**

14 Q. And you were terminated from employment shortly

15:10:33 15 after receiving this April 21st e-mail; is that right?

16 **A. Yes, sir.**

17 Q. And would it be fair to say that your

18 termination was sometime on or around May 1st of 2014?

19 **A. Yes.**

15:10:45 20 Q. And as of May 1st, 2014, you had been on leave

21 for over a year; is that right?

22 **A. From the date of my surgery to this time, yes,**

23 **that's right.**

24 Q. And you're still suffering from your CRPS

15:11:03 25 today; is that correct?

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1 **A. Yes.**

2 Q. And so as of May 2014, there -- there was an

3 indefinite period for which you would be subject to the

4 restrictions associated with that condition, wasn't

15:11:15 5 there?

6 Can I rephrase that?

7 **A. "Indefinite"?**

8 Q. Can I -- Can I rephrase that --

9 **A. Yeah.**

15:11:19 10 Q. -- question for you?

11 **A. Please.**

12 Q. Okay. As of May 1st, 2014, you couldn't tell

13 UPS how long your restrictions would last, could you?

14 **A. I couldn't tell them -- I couldn't tell them**

15:11:33 15 **that, no. I was still under treatment and they were**

16 **trying different treatments, and I still continue with**

17 **treatment today.**

18 Q. Do you think you could perform your prior

19 position at UPS as you sit here today?

15:11:59 20 **A. Yes.**

21 Q. Would you need an accommodation to perform the

22 essential functions of that position?

23 **A. Yes.**

24 Q. What accommodation would you need today?

15:12:07 25 **A. I would need to have -- I may need to have more**

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1 **breaks. I would need some time for treatment.**

2 **There's -- There was time provided when I**

3 **was working there -- there's three week -- I had been**

4 **over there five years, so I had three weeks of vacation,**

15:12:31 5 **and then I also had five -- five days of discretionary**

6 **days, and those discretionary days I could take a**

7 **half -- half a day at a time.**

8 **So that was used for cases like this where**

9 **I can -- I had an -- an appointment or procedure or...**

15:12:47 10 Q. Sure. Could you work a full eight-hours-a-day,

11 40-hours-a-week position with UPS, in your opinion,

12 today?

13 **A. To -- I would prefer to have a ramp-up period**

14 **to see how I do and have my doctors evaluate that as**

15:13:07 15 **well.**

16 Q. So is that a you're -- you're not certain that

17 you could perform a full-time position with UPS here

18 today --

19 **A. I -- I -- I --**

15:13:15 20 Q. -- but you think you might?

21 **A. I -- I think I might. I think it's possible.**

22 Q. Have you applied for reemployment with UPS at

23 any time over the last three years?

24 **A. No.**

15:13:25 25 Q. Is there any particular reason you haven't

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1 reapplied with UPS?

2 **A. Yes.**

3 Q. Why is that?

4 **A. It's their policy not to rehire.**

15:13:35 5 Q. It's UPS' policy not to rehire?

6 **A. Yes.**

7 Q. Who told you that?

8 **A. The policy book.**

9 Q. What does the policy book -- To the best of

15:13:45 10 your understanding, what does the policy book say about

11 rehiring?

12 **A. "We do not rehire terminated employees." I**

13 **think you sent me a copy of it, too, one of your**

14 **exhibits. I don't recall the number.**

15:13:59 15 Q. Other than what's in the policy book, did

16 anybody at UPS tell you that you were ineligible for

17 rehire?

18 **A. Yes. We learned that -- All the ISRs learned**

19 **that in training.**

15:14:11 20 Q. Is this new-hire training?

21 **A. Yes. Because that was provided by**

22 **Rick Montecinos, who was the HR manager at the time.**

23 Q. And that training told you that if you were

24 terminated, you were ineligible for rehire?

15:14:27 25 **A. Correct.**



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1 Q. And would this be termination for cause, like  
2 misconduct, or anyone who -- who was involuntarily  
3 separated from the company?  
4 **A. I'm not 100 percent certain, but I just know,**  
15:14:39 5 **if you did not have a job with UPS in any -- any**  
6 **capacity in any -- you know, whether it's small package**  
7 **or supply-chain solutions or cargo or UPS Capital, or**  
8 **any division of UPS, you could not be rehired.**  
9 Q. You told me that's based on training from  
15:15:05 10 Mr. Montecinos and the policy book.  
11 Any other sources of information that told  
12 you you were ineligible for rehire?  
13 **A. Just what I saw in writing and what I learned**  
14 **in training.**  
15:15:17 15 Q. Okay. And is that the only reason that you  
16 haven't reapplied for employment at UPS?  
17 **A. I would -- I would say yes. That was -- It's**  
18 **clear.**  
19 Q. Okay. While you were out on leave in 2013 and  
15:15:35 20 2014, you also applied for long-term disability benefits  
21 with Aetna, didn't you?  
22 **A. Yes, sir.**  
23 Q. And, in fact, you were approved for those  
24 benefits, right?  
15:15:47 25 **A. Correct.**

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1 Q. And if I told you that your approval for  
2 long-term disability began sometime in October of 2013,  
3 does that more or less sound right?  
4 **A. Yes, it does.**  
15:15:55 5 Q. And is that because, under UPS' disability  
6 plan, you transitioned from short-term to long-term  
7 disability payments once you were out of work for six  
8 months or so?  
9 **A. That's correct, per the summary plan**  
15:16:07 10 **description.**  
11 Q. At some point, Aetna terminated your disability  
12 benefits, didn't they?  
13 **A. Yes, they did.**  
14 Q. You understand that Aetna is a company distinct  
15:16:19 15 from UPS, right?  
16 **A. Yes.**  
17 Q. Okay. So when Aetna canceled your benefits,  
18 that wasn't a decision that was made by UPS itself?  
19 **A. That's correct.**  
15:16:29 20 Q. Okay. And isn't it true that as a result of  
21 the termination of your long-term disability benefits,  
22 you've actually filed suit against Aetna?  
23 **A. That's correct.**  
24 Q. And that suit -- do you understand that that  
15:16:45 25 suit remains pending today?

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1 **A. Yes.**  
2 Q. Do you believe you should be receiving  
3 long-term disability benefits from Aetna as you sit here  
4 today?  
15:16:57 5 **A. I have not been, but do I believe I...**  
6 **Let me -- I'd like to think about that a**  
7 **little bit. The -- My condition has -- My health**  
8 **condition has -- has changed, so I'm not 100 percent**  
9 **certain on how to -- how to -- how to address that.**  
15:17:45 10 Q. You don't know whether Aetna should be paying  
11 you long-term disability benefits here today?  
12 **A. Well, they haven't been paying me, so I haven't**  
13 **really -- I mean, they stopped paying me after a certain**  
14 **period of time.**  
15:17:55 15 Q. I understand that, but that's also not my  
16 question, Mr. Gonzalez.  
17 **A. Okay. Please repeat your question.**  
18 Q. My -- My question is: As you sit here today,  
19 in May of --  
15:18:01 20 **A. Uh-huh.**  
21 Q. -- 2017 --  
22 **A. Uh-huh.**  
23 Q. -- do you believe Aetna should be paying you  
24 long-term disability benefits?  
15:18:07 25 **A. I would say no.**

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1 Q. And you understand that this lawsuit that  
2 you're offering this deposition in is distinct from your  
3 lawsuit against Aetna; is that right?  
4 **A. If I may have a moment, please?**  
15:18:31 5 Q. Are you asking for a break or just to think  
6 about things for a second?  
7 **A. A -- A -- Well, a break would be good, if I**  
8 **could take a break.**  
9 Q. Well, I have -- I've just got -- The question  
15:18:39 10 that's pending is: Do you understand that this lawsuit  
11 is distinct and a separate lawsuit from the lawsuit that  
12 you have pending against Aetna?  
13 **A. Yes, they are -- they are distinct.**  
14 Q. All right. Well, if you need to take a break,  
15:18:53 15 I suppose we can take a break, Mr. Gonzalez.  
16 **A. Okay.**  
17 THE VIDEOGRAPHER: The time is 3:18 p.m.,  
18 and we are off the record.  
19 (Off the record.)  
15:27:49 20 THE VIDEOGRAPHER: The time is 3:27 p.m.,  
21 and we are on the record.  
22 Q. (By Mr. Barbour) Mr. Gonzalez, are you ready to  
23 proceed, sir?  
24 **A. Yes.**  
15:27:57 25 Q. And any answers you want to change to your

45 (Pages 174 to 177)



<p style="text-align: right;">Page 178</p> <p>1 deposition questions so far?</p> <p>2 <b>A. Not at this time, no.</b></p> <p>3 Q. When we broke for a break, we were discussing</p> <p>4 your lawsuit against Aetna in relationship to your</p> <p>15:28:09 5 long-term disability benefits; is that correct?</p> <p>6 <b>A. Yes, sir.</b></p> <p>7 Q. And we had mentioned that it was a separate</p> <p>8 lawsuit and so forth. You recall that, right?</p> <p>9 <b>A. Right.</b></p> <p>15:28:15 10 Q. And though it's a separate lawsuit, do you</p> <p>11 understand that your testimony here today could</p> <p>12 potentially be admissible in that Aetna lawsuit?</p> <p>13 <b>A. Yes.</b></p> <p>14 <b>(Exhibit 12 marked.)</b></p> <p>15:28:29 15 Q. (By Mr. Barbour) I want to hand you what I've</p> <p>16 marked as Exhibit 12 to your deposition, Mr. Gonzalez.</p> <p>17 And obviously I would ask you if you recognize the</p> <p>18 document that I've handed you as Exhibit 12.</p> <p>19 <b>A. Yes, I do.</b></p> <p>15:28:55 20 Q. And is Exhibit 12 what you might consider to be</p> <p>21 the lawsuit that was filed on your behalf against Aetna?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And when I flip to the last page of Exhibit 12,</p> <p>24 in the bottom right-hand corner, it's D-RG-4520.</p> <p>15:29:13 25 <b>A. Yes, sir.</b></p>	<p style="text-align: right;">Page 180</p> <p>1 Gonzalez, you, was employed as an inside sales</p> <p>2 representative for UPS?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Okay. And I know we've had some protracted</p> <p>15:30:27 5 discussion about what your actual job title was, but you</p> <p>6 were some type of individual working in sales for UPS,</p> <p>7 correct?</p> <p>8 <b>A. Yes, sir.</b></p> <p>9 Q. Okay. And then Paragraph 4 continues and says,</p> <p>15:30:37 10 "In the spring of 2013, he began suffering severe pain</p> <p>11 in his left shoulder."</p> <p>12 And it says that, correct?</p> <p>13 <b>A. Yes, it does.</b></p> <p>14 Q. Is that -- Is that an accurate statement of</p> <p>15:30:45 15 your medical condition?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Okay. And then does Paragraph 4 also tell the</p> <p>18 Court that "In April 2013, he underwent left shoulder</p> <p>19 surgery due to left shoulder synovitis, left shoulder</p> <p>15:30:57 20 impingement and left shoulder AC joint degeneration"?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And was it accurate that in April of 2013 you</p> <p>23 underwent that surgery?</p> <p>24 <b>A. Yes.</b></p> <p>15:31:07 25 Q. And then does it also tell the Court that your</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. This is electronically signed by Mr. Jeffrey E.</p> <p>2 Dahl; is that right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And Mr. Dahl is another one of your attorneys;</p> <p>15:29:23 5 is that right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Okay. And I -- at no point during our</p> <p>8 discussion do I want you to tell me anything Mr. Dahl</p> <p>9 has told you or what you've told Mr. Dahl. Is that</p> <p>15:29:31 10 fair?</p> <p>11 <b>A. Fair.</b></p> <p>12 Q. Okay. But Mr. Dahl is your attorney in</p> <p>13 relationship to your lawsuit against Aetna; is that</p> <p>14 right?</p> <p>15:29:39 15 <b>A. Yes.</b></p> <p>16 Q. And you understand that this document, this</p> <p>17 Exhibit 12, was filed on your behalf with the Federal</p> <p>18 Court here in San Antonio; is that right?</p> <p>19 <b>A. Yes.</b></p> <p>15:29:49 20 Q. I want to look at Page 2 of that complaint and</p> <p>21 specifically Paragraph 4, Mr. Gonzalez.</p> <p>22 Are you with me on Paragraph 4?</p> <p>23 <b>A. Yes, sir.</b></p> <p>24 Q. Okay. In Paragraph 4, under "statement of</p> <p>15:30:15 25 facts," does this complaint tell the Court that</p>	<p style="text-align: right;">Page 181</p> <p>1 pain did not improve following that surgery?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And is that an accurate representation to the</p> <p>4 Court?</p> <p>15:31:15 5 <b>A. Yes, at that time.</b></p> <p>6 Q. Okay. And -- And then did you also tell the</p> <p>7 Federal Court here in San Antonio, in this Paragraph 4,</p> <p>8 that "Postoperatively, he" -- that's you -- "suffered</p> <p>9 from left shoulder recurrent adhesive capsulitis and</p> <p>15:31:31 10 reflective sympathetic dyst" -- "dystrophy that</p> <p>11 prevented him from returning to work for UPS"?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And when I go over to that next page, that</p> <p>14 Paragraph 5, does Paragraph 5 tell the Court here that</p> <p>15:31:49 15 "Because he" --</p> <p>16 And, again, that's you, right --</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. -- Mr. Gonzalez, right?</p> <p>19 <b>A. Uh-huh.</b></p> <p>15:31:53 20 Q. "Because Mr. Gonzalez was not able to return to</p> <p>21 work, Gonzalez submitted a claim for short-term</p> <p>22 disability benefits."</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And in Paragraph 6, are you also telling the</p> <p>15:32:09 25 Court that your RSD of your left upper extremity did not</p>

<p style="text-align: right;">Page 182</p> <p>1 improve? I read that first sentence correct?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And then you also tell the Court that as a</p> <p>4 result of that, Aetna approved your claim for long-term</p> <p>15:32:23 5 disability benefits, finding you unable to work as of</p> <p>6 October 21st, 2013, the day after short-term disability</p> <p>7 benefits expired.</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. This complaint is generally describing how your</p> <p>15:32:37 10 medical condition affected your ability to work; is that</p> <p>11 right?</p> <p>12 <b>A. Yes. It talks about my medical condition.</b></p> <p>13 Q. Okay. And -- And this complaint tells the</p> <p>14 Court that because of your medical condition, you were</p> <p>15:32:53 15 no longer able to perform the work expected of you with</p> <p>16 UPS, doesn't it?</p> <p>17 <b>A. Yeah. Yeah. And it does state...</b></p> <p>18 Q. When I go down to Paragraph 8, doesn't it</p> <p>19 indicate that, though you went out on leave in April of</p> <p>15:33:11 20 2013 and you tried to come back in April 2014, the first</p> <p>21 sentence of Paragraph 8 is, "Gonzalez's condition did</p> <p>22 not improve"?</p> <p>23 <b>A. Yes, that is --</b></p> <p>24 Q. And is that an accurate statement to the</p> <p>15:33:23 25 Federal Court here?</p>	<p style="text-align: right;">Page 184</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And when you say, "I remain disabled," do you</p> <p>3 believe you're able to perform gainful work?</p> <p>4 MR. CRANE: Objection; foundation.</p> <p>15:34:57 5 Q. (By Mr. Barbour) Let me rephrase that.</p> <p>6 Do you believe there are jobs that you're</p> <p>7 able to perform, Mr. Gonzalez?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Okay. For example, you said you felt like you</p> <p>15:35:07 10 could perform the ISR job with UPS; is that right?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. In fact, I think you said that you believe that</p> <p>13 with time off for doctors' appointments and things like</p> <p>14 that, you could return to work with UPS today if you</p> <p>15:35:21 15 wanted to; is that correct?</p> <p>16 <b>A. With -- With accommodations, yes.</b></p> <p>17 Q. And those accommodations would be time off for</p> <p>18 medical appointments, right?</p> <p>19 <b>A. That's one example.</b></p> <p>15:35:29 20 Q. Okay. You don't feel like you would need a</p> <p>21 part-time schedule to return to work; is that right?</p> <p>22 <b>A. I don't recall saying that.</b></p> <p>23 Q. Well, do you feel like you would need a</p> <p>24 part-time schedule to return to your sales consultant</p> <p>15:35:41 25 role with UPS today?</p>
<p style="text-align: right;">Page 183</p> <p>1 <b>A. Yes, it is.</b></p> <p>2 Q. That your condition did not improve following</p> <p>3 the treatments?</p> <p>4 <b>A. Following the treatments -- That's -- That's</b></p> <p>15:33:33 5 <b>not totally true. My condition has improved due to some</b></p> <p>6 <b>treatment, but the treatment doesn't always last.</b></p> <p>7 Q. Okay. Well, Paragraph 8 begins with the</p> <p>8 sentence, "Gonzalez's condition did not improve," does</p> <p>9 it not?</p> <p>15:33:47 10 <b>A. Yes.</b></p> <p>11 Q. Okay. When -- When you approved the filing of</p> <p>12 this complaint, did -- did you believe that that was an</p> <p>13 accurate statement?</p> <p>14 <b>A. Yes.</b></p> <p>15:33:55 15 Q. And then you also tell the Court that "By the</p> <p>16 summer of 2015, he" -- that's you -- "was suffering from</p> <p>17 shoulder adhesive capsulitis, synovitis and complex</p> <p>18 regional pain syndrome in both limbs that extended down</p> <p>19 to his hands."</p> <p>15:34:11 20 <b>A. Yes.</b></p> <p>21 Q. If you go to Paragraph 15 on Page 5,</p> <p>22 Mr. Gonzalez --</p> <p>23 <b>A. Okay.</b></p> <p>24 Q. -- Paragraph 15 ends with the sentence,</p> <p>15:34:41 25 "Gonzalez remains disabled," does it not?</p>	<p style="text-align: right;">Page 185</p> <p>1 <b>A. I -- I would prefer to return to work part-time</b></p> <p>2 <b>as a ramp-up period, is my preference.</b></p> <p>3 Q. I understand the ramp-up period. Ramp-up</p> <p>4 sounds like it would be a ramp-up to a full-time</p> <p>15:35:59 5 position.</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Is that fair?</p> <p>8 <b>A. That's fair.</b></p> <p>9 Q. Okay. And so ramping-up period aside, you feel</p> <p>15:36:03 10 like, with an accommodation, you would eventually be</p> <p>11 able to perform the full-time sales consultant role that</p> <p>12 you previously had with UPS; is that correct?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Would you also be able to perform, for example,</p> <p>15:36:15 15 the role you previously held with Klinger Specialties?</p> <p>16 <b>A. Yes. Apparent -- Yes.</b></p> <p>17 Q. All right. Do you generally feel like you</p> <p>18 would be able to perform most sales jobs as you sit here</p> <p>19 today?</p> <p>15:36:29 20 <b>A. There again, with accommodation.</b></p> <p>21 Q. And with accommodation being time off for</p> <p>22 medical appointments. And anything else?</p> <p>23 <b>A. Breaks. I mean, as I stated before, many of</b></p> <p>24 <b>the accommodation I've asked for -- asked of UPS.</b></p> <p>15:36:47 25 Q. Yeah. Breaks, time off for medical</p>

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1 appointments. What other accommodation would you need  
 2 here today to perform most sales jobs that you're  
 3 familiar with?  
 4 MR. CRANE: Here, let me get it.  
 15:37:03 5 THE WITNESS: Can we refer back to what we  
 6 discussed earlier as far as the accommodations that I  
 7 had requested of UPS?  
 8 Q. (By Mr. Barbour) Okay. And I guess that's  
 9 really my question, is -- We're discussing a  
 15:37:21 10 hypothetical return of you to work with UPS --  
 11 A. Uh-huh.  
 12 Q. -- be it in your enterprise account  
 13 representative position, franchise sales consultant.  
 14 Whatever -- Whatever the -- the name of the position  
 15:37:31 15 is --  
 16 A. Uh-huh.  
 17 Q. -- that's what we're referring to.  
 18 Would the accommodations you need to  
 19 return to that job today be any different than the  
 15:37:37 20 accommodations that you needed back in April 2014 to go  
 21 back into that job?  
 22 A. Would they be any different now?  
 23 Q. Yes, sir.  
 24 A. I would have to review with my -- my  
 15:37:55 25 physicians.

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1 Q. So you don't know whether you would have --  
 2 need -- need different accommodations today?  
 3 A. I -- I -- I can't say with complete certainty  
 4 at this time. I would like to have the opportunity to  
 15:38:11 5 review it with my pain management doctor.  
 6 Q. That was over three years ago now, right?  
 7 A. I saw my pain management doctor last week.  
 8 Q. Fair point. Fair point.  
 9 The -- The checklist meeting you had at  
 15:38:23 10 UPS to discuss your request for accommodation was over  
 11 three years ago, right?  
 12 A. Yes.  
 13 Q. Have you discussed with your physi --  
 14 physicians during that three-plus years what  
 15:38:33 15 accommodations would be necessary for you to return to  
 16 work?  
 17 A. No.  
 18 (Exhibit 13 marked.)  
 19 Q. (By Mr. Barbour) I'm going to hand you what  
 15:38:53 20 I've marked as Exhibit 13 to your deposition,  
 21 Mr. Gonzalez. I only have a couple questions.  
 22 The first is: On the second page of  
 23 Exhibit 13, is that your signature at the bottom?  
 24 A. Yes, it is.  
 15:39:31 25 Q. And then is that your handwriting --

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1 A. Yes.  
 2 Q. -- throughout Exhibit 13?  
 3 A. Yes, sir.  
 4 (Exhibit 14 marked.)  
 15:39:57 5 Q. (By Mr. Barbour) I'll hand you Exhibit 14,  
 6 Mr. Gonzalez. Do you recognize Exhibit 14?  
 7 A. Yes.  
 8 Q. Okay. Is Exhibit 14 a letter from your other  
 9 attorney, your other counsel, Mr. Dahl, to Aetna in  
 15:40:45 10 relationship to your appeal of the denial of your  
 11 long-term disability benefits?  
 12 A. Yes.  
 13 Q. And this is dated Febru -- excuse me --  
 14 December 16th, 2016; is that right?  
 15:40:55 15 A. Yes, sir.  
 16 Q. Did you authorize Mr. Dahl to submit this to  
 17 Aetna on your behalf?  
 18 A. Yes.  
 19 Q. And did you understand Mr. Dahl was providing  
 15:41:11 20 Aetna with certain information, documents and other  
 21 items that -- that he felt supported your entitlement to  
 22 long-term disability benefits from Aetna?  
 23 A. That's my understanding of why he was  
 24 representing me.  
 15:41:27 25 Q. Okay. I'm looking at Paragraph 7 on the bottom

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1 of the second page of Exhibit 14, Mr. Gonzalez.  
 2 Do you see that Paragraph 7 --  
 3 A. I do.  
 4 Q. -- beginning with "Activities of daily living"?  
 15:41:47 5 A. Yes.  
 6 Q. Okay. Could -- Could you read that paragraph  
 7 into the record for me, Mr. Gonzalez?  
 8 A. "Activities of daily" -- "daily living form  
 9 completed by Ronald Gonzalez, indicating that he suffers  
 15:41:59 10 from chronic and severe pain in his upper and lower  
 11 extremities and has to take opiate" -- "opioid  
 12 medications daily to help manage his pain, and due to  
 13 these conditions, he re" -- "remains unable to perform  
 14 the requirements of any occupation."  
 15:42:15 15 Q. As of February -- excuse me -- December 16th,  
 16 2016, were you taking opioid medications on a daily  
 17 basis?  
 18 A. Yes.  
 19 Q. Okay. Are you still taking opioid medications  
 15:42:29 20 on a daily basis today?  
 21 A. Yes.  
 22 Q. What specifically -- opioid painkillers are you  
 23 taking on a daily basis today?  
 24 A. I am taking a generic for OxyContin, which is,  
 15:42:45 25 I guess, Percocet without the aspirin, and then morphine

48 (Pages 186 to 189)

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1 sulfate.  
 2 Q. Do you know the dosage of the OxyContin you  
 3 take daily today?  
 4 **A. I believe it's 15.**  
 15:43:01 5 Q. 15 milligrams?  
 6 **A. Yeah.**  
 7 Q. And how frequently on a daily basis do you take  
 8 OxyContin?  
 9 **A. It's as needed.**  
 15:43:09 10 Q. In the last 24 hours, how many times have you  
 11 taken OxyContin?  
 12 **A. Three times.**  
 13 Q. Is that more or less an average amount that --  
 14 that you would take in a given day?  
 15:43:19 15 **A. Yes. Three as -- as needed.**  
 16 Q. But three is within the realm of average?  
 17 **A. Last -- Yes.**  
 18 Q. Okay. What about morphine sulfate? What's  
 19 your dosage on that?  
 15:43:31 20 **A. It's also as needed.**  
 21 Q. Do you know the -- the dosage, though?  
 22 **A. Oh, I'm sorry. It's 30 milligram.**  
 23 Q. Okay. How many times in the last 24 hours have  
 24 you taken morph -- morphine sulfate?  
 15:43:43 25 **A. Once.**

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1 **A. It's been close to a year.**  
 2 Q. Did you begin taking the Ketamine troches after  
 3 you discontinued the Ketamine infusions themselves?  
 4 **A. No.**  
 15:45:07 5 Q. Okay. There was a time at which you were both  
 6 having infusions and taking the as-needed troches?  
 7 **A. Correct.**  
 8 Q. Do you know whether you were taking the  
 9 Ketamine -- Do you know whether you were taking Ketamine  
 15:45:21 10 in any form in April of 2014?  
 11 **A. In April 2014?**  
 12 Q. Yes, sir.  
 13 **A. It was after I started seeing -- after I**  
 14 **changed doctors from Dr. Martinez to Dr. Bacon. So**  
 15:45:39 15 **at -- at -- some time after -- after that.**  
 16 Q. We could look at your medical forms, I guess,  
 17 right?  
 18 **A. Yes, sir.**  
 19 Q. And that's because Dr. Martinez, his associate  
 15:45:49 20 who administered the Ketamine infusions to you, left his  
 21 practice, right?  
 22 **A. That's correct.**  
 23 Q. Right. And then that's why you had to  
 24 transition to a new pain management specialist who could  
 15:45:59 25 continue to give you the Ketamine?

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1 Q. And is that more or less average in a given day  
 2 for you?  
 3 **A. As needed, one to two times.**  
 4 Q. Are you still taking Ketamine?  
 15:43:55 5 **A. The infusions, or the troch -- troches?**  
 6 Q. Are you still taking Ketamine in any form?  
 7 **A. Yes.**  
 8 Q. In what form are you taking it today?  
 9 **A. Tro -- In a troche.**  
 15:44:09 10 Q. And, again, because I'm not a medical  
 11 professional, can you tell me what a troche is?  
 12 **A. Troche is a sublingual medication.**  
 13 Q. So it's absolved -- absorbed directly  
 14 through --  
 15:44:21 15 **A. Yes.**  
 16 Q. -- the membranes in the mouth, I suppose?  
 17 **A. Yes, sir.**  
 18 Q. Okay. How often, on an average day, do you  
 19 take Ketamine troches?  
 15:44:29 20 **A. Three to -- Three to five times.**  
 21 Q. Do you know the dosage of your Ketamine  
 22 troches?  
 23 **A. 160 milligram.**  
 24 Q. When was the last time you had Ketamine  
 15:44:55 25 infusions, Mr. Gonzalez?

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1 **A. Correct.**  
 2 Q. Now, going back to Exhibit 7 -- excuse me --  
 3 Exhibit 14, Mr. Dahl does write on your behalf that as  
 4 of December 16th, 2016, you remained unable to perform  
 15:46:13 5 the requirements of any occupation, doesn't he?  
 6 **A. I'm sorry. Whereabouts are you on that page?**  
 7 Q. Yes, sir. I'm at Paragraph 7 --  
 8 **A. Uh-huh. Okay.**  
 9 Q. -- at the bottom of Page 2, Exhibit 14.  
 15:46:27 10 **A. Yes, he does.**  
 11 Q. Okay. Is that an accurate statement that  
 12 Mr. Dahl is making on your behalf, that you are unable  
 13 to perform the requirements of any occupation?  
 14 **A. Not -- No, not at this time.**  
 15:46:43 15 Q. Was it accurate as of December 16th, 2016?  
 16 **A. I don't recall how I was feeling at that time,**  
 17 **but I -- I was -- I was just trying to get my -- my**  
 18 **benefits approved.**  
 19 Q. You wouldn't have authorized Mr. Dahl to submit  
 15:47:19 20 this on your behalf if it contained inaccurate  
 21 information, right?  
 22 **A. No, I would not.**  
 23 Q. So is it likely that that Paragraph 7 was  
 24 accurate at least as of December 16th, 2016?  
 15:47:33 25 **A. Yes.**

49 (Pages 190 to 193)

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1 Q. Okay. Even if it's not accurate today, it was  
2 accurate at that time; is that right?  
3 **A. I -- I believe that to be correct, yes.**  
4 **(Exhibit 15 marked.)**  
15:47:59 5 Q. (By Mr. Barbour) I'll hand you what I'm marking  
6 as Exhibit 15 to your deposition, Mr. Gonzalez.  
7 Is Exhibit 15 a handwritten note from you?  
8 **A. Yes, it is.**  
9 Q. Is that your signature at the bottom?  
15:48:19 10 **A. It is.**  
11 Q. Okay. And Exhibit 15 is dated February 11th,  
12 2014, isn't it?  
13 **A. Yes.**  
14 Q. This was the day after you received  
15:48:31 15 Mr. Hawthorne's e-mail asking you for medical  
16 information in relationship to your request for  
17 accommodation, isn't it?  
18 **A. Yes, it would be.**  
19 Q. Okay. And, in fact, the subject line of this  
15:48:43 20 note says, "Re: Job-related accommodation forms (ADA),"  
21 doesn't it?  
22 **A. Yes.**  
23 Q. So this -- this was probably written in  
24 relationship to trying to get some information related  
15:48:55 25 to that accommodation process. Is that fair?

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1 **A. Yes.**  
2 Q. Okay. And it's addressed to the attention of  
3 someone named Pam; is that right?  
4 **A. Yes.**  
15:49:05 5 Q. Who is Pam?  
6 **A. She's a nurse practitioner for Dr. Martinez.**  
7 Q. So she would have been a healthcare  
8 professional in the office of your pain specialist at  
9 that time; is that right?  
15:49:15 10 **A. Yes.**  
11 Q. Okay. Do you see the paragraph at the very  
12 bottom of this Exhibit 15 that begins with, "As you may  
13 recall"?  
14 **A. Uh-huh. Yes.**  
15:49:25 15 Q. And you tell Pam, "As you may recall, I am also  
16 being treated by a psychiatrist for anxiety, depression  
17 and sleep deprivation"?  
18 **A. Yes.**  
19 Q. Okay. And that was an accurate statement; is  
15:49:37 20 that right?  
21 **A. At that time, yes, sir.**  
22 Q. Okay. And then you also tell Pam, "Therefore,  
23 my thinking processes, due to pain and anxiety, are  
24 slow, and I experience lack of focus, concentration and  
15:49:49 25 memory loss."

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1 **A. Yes.**  
2 Q. And was that also an accurate statement, that  
3 due to your various conditions that you had a lack of  
4 focus, concentration and memory loss?  
15:50:01 5 **A. Yes.**  
6 Q. Can you go back to Exhibit 7 for me,  
7 Mr. Gonzalez?  
8 **A. (Complying.)**  
9 Q. You -- You were able to recognize Exhibit 7; is  
15:50:47 10 that right?  
11 **A. Yes, sir.**  
12 Q. And this was a handwritten note you submitted  
13 in relationship to your application for Social Security  
14 disability benefits --  
15:50:55 15 **A. Yes.**  
16 Q. -- is that right?  
17 **A. That's correct.**  
18 Q. Okay. And it was dated March 15th of 2014 on  
19 the very back page, if you want to double-check me on  
15:51:03 20 that.  
21 **A. Okay. Yes.**  
22 Q. All right. So you would have submitted this  
23 right in the middle of UPS requesting or analyzing your  
24 request for accommodation, wouldn't you?  
15:51:15 25 **A. Yes. It would have been -- Yes, that's**

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1 **correct.**  
2 Q. And you told me before that you tried to be as  
3 accurate and honest as possible with the Social --  
4 Social Security Administration in completing this form;  
15:51:31 5 is that correct?  
6 **A. Yes.**  
7 Q. Because you understood the Social Security  
8 Administration would rely on your statements in  
9 determining whether or not it was proper to approve or  
15:51:39 10 deny your request for disability benefits?  
11 **A. Yes.**  
12 Q. Okay. At the bottom of the first page of  
13 Exhibit 7, Mr. Gonzalez, do you see the question that  
14 begins with No. 5, "How do your illnesses, injuries or  
15:51:57 15 conditions limit your ability to work?"  
16 **A. Yes.**  
17 Q. Okay. And I'm skipping down. Do you see a  
18 sentence that begins -- about halfway down that begins  
19 with, "My current work requires"?  
15:52:09 20 **A. Yes.**  
21 Q. Okay. Please let me know if I misread this  
22 sentence.  
23 Do you say, "My current work requires  
24 99 percent PC and phone work, sitting or standing in one  
15:52:19 25 place and repetitive upper" -- "upper extremity use"?

50 (Pages 194 to 197)

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1 Is that correct?

2 **A. That is.**

3 Q. Okay. And was that an accurate representation

4 of the current work that you were doing for UPS?

15:52:29 5 **A. Yes.**

6 Q. Do you also tell the Social Security

7 Administration, "This causes my current pain levels to

8 increase and limits my range of motion of each extremity

9 and emotionally impacts my ability to focus and

15:52:39 10 concentrate"?

11 **A. Yes.**

12 Q. Okay. And was that an accurate statement?

13 **A. At that time, yes.**

14 Q. Okay. As of March 15th, 2014, that was

15:52:49 15 accurate, wasn't it?

16 **A. Yes.**

17 Q. Okay. And do you also tell the Social Security

18 Administration, "In my current role, I have over 1,500

19 accounts to manage and grow the business from year over

15:52:59 20 year"?

21 **A. Yes.**

22 Q. Okay. And that was an accurate statement also,

23 correct?

24 **A. Yes.**

15:53:03 25 Q. Okay. And then do you tell the Social Security

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1 Administration, "With the chronic pain of both

2 extremities and pain medication, I do not have the

3 physical and mental ability to perform this role"?

4 **A. Yes.**

15:53:17 5 Q. Okay. And "this role" is the job that you then

6 held with UPS, isn't it?

7 **A. Yes. It was at the time, yes.**

8 Q. Right. And it's your testimony that that was

9 an accurate statement to the Social Security

15:53:29 10 Administration, was it not?

11 **A. Yes.**

12 Q. Okay. And you had said that it was accurate at

13 that time. Did it become inaccurate at some point that

14 you became able to perform or -- Let me strike that.

15:53:43 15 At some point, did you have the physical

16 and mental ability to perform that role with UPS?

17 **A. I had my good days and I had my bad days under**

18 **treatment, absolutely.**

19 Q. Okay. Well, as of March 15th, 2014, you did

15:53:55 20 not have those abilities, did you?

21 **A. At the time I wrote this -- this document, I**

22 **did not.**

23 Q. Okay. You don't tell the Social Sec -- Social

24 Security Administration that you can perform that role

15:54:11 25 for four of eight hours a day, do you?

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1 **A. I don't see where I said that. Did I say --**

2 Q. No.

3 **A. -- four to eight hours a day?**

4 Q. That -- That -- That is my point.

15:54:21 5 **A. Oh.**

6 Q. You -- You don't tell them that you're able to

7 perform that role on a part-time basis --

8 **A. No.**

9 Q. -- do you?

15:54:27 10 **A. I don't -- I don't -- No, I did not say that --**

11 Q. Okay.

12 **A. -- or write that.**

13 Q. Can you go to the page that has "1482" in the

14 lower right-hand corner, Mr. Gonzalez?

15:54:43 15 **A. The same exhibit?**

16 Q. Same exhibit, yeah. We're still on Exhibit 7.

17 **A. 1482?**

18 Q. On the back.

19 MR. CRANE: Yeah. Oh, no. I'm sorry.

15:54:49 20 MR. BARBOUR: Yeah. It's the...

21 MR. CRANE: Sort of the back.

22 MR. BARBOUR: It is confusing because they

23 were produced in reverse order, so...

24 Q. (By Mr. Barbour) Are you on the page that has

15:55:07 25 the numbers "1482" in the lower right-hand corner,

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1 Mr. Gonzalez?

2 **A. Yes, I am.**

3 Q. And do you see the No. 20, where it says,

4 "Check any of the following items that your illnesses,

15:55:17 5 injuries or conditions affect"?

6 **A. Yes, I do.**

7 Q. And you checked a variety of boxes here; is

8 that right?

9 **A. Yes.**

15:55:23 10 Q. Okay. Is it fair that -- to say that you

11 checked the boxes next to "memory," "completing tasks,"

12 "concentration," "understanding," "following

13 instructions" and "getting along with others"?

14 **A. Yes.**

15:55:35 15 Q. So it would be accurate to say that, as of

16 March 15th, 2014, your illness, injury and condition

17 affected your ability to -- to engage in each of those

18 functions? Did it not?

19 **A. That was -- Yes. That's what I checked off.**

15:55:49 20 Q. Okay. And then under No. 20A -- No. 20, you've

21 written some things in that paragraph that begins with

22 "I can only lift up to five pounds," didn't you?

23 **A. Yes.**

24 Q. The very last -- or two last sentences in that

15:56:05 25 paragraph read, "Memory and concentration, understanding

51 (Pages 198 to 201)



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1 are difficult," don't they? Doesn't that one sentence  
2 read that?  
3 **A. Yes.**  
4 Q. Okay. Are -- Are you with me, Mr. Gonzalez?  
15:56:21 5 **A. I see -- In the body of that -- of No. 20?**  
6 Q. Yes, sir. And I'm looking at --  
7 **A. In my handwriting?**  
8 Q. Yes, sir. Do you see the sentence that begins  
9 with, "Memory and concentration"?  
15:56:33 10 **A. Yes, I do.**  
11 Q. And does that sentence read, "Memory and  
12 concentration, understanding are difficult"?  
13 **A. Yes.**  
14 Q. And does the next sentence read, "Instructions  
15:56:45 15 must be repeated or I must be reminded frequently"?  
16 **A. Yes.**  
17 Q. Earlier you said that you continued taking  
18 Ketamine.  
19 Refresh my recollection. Was it your  
15:57:35 20 testimony that you began taking Ketamine after you left  
21 Dr. Martinez's practice?  
22 **A. That's correct.**  
23 Q. You did take Ketamine while under  
24 Dr. Martinez's care, though, did you not?  
15:57:49 25 **A. I -- I had an infusion.**

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1 Q. Right. And there -- there's two different  
2 ways -- at least two different ways we can take it, an  
3 outright infusion --  
4 **A. Uh-huh.**  
15:57:57 5 Q. -- or kind of a PRN troche, I think is what --  
6 **A. Correct.**  
7 Q. -- you had described; is that right?  
8 **A. That is correct, yes, sir.**  
9 Q. Dr. Martinez had administered Ketamine  
15:58:05 10 infusions to you, had he not?  
11 **A. Yes.**  
12 Q. And would it be fair to say that after you had  
13 these Ketamine infusions you were substantially unable  
14 to engage in day-to-day activities immediately  
15:58:17 15 thereafter?  
16 **A. I believe he -- the instructions on checkout**  
17 **are for at least a day.**  
18 Q. All right. Would it be fair to say that you  
19 were taking Ketamine infusions at least periodically up  
15:58:33 20 through the date of your termination with UPS?  
21 **A. Was I taking infusions since I left UPS up**  
22 **until the time I said, about close to a year ago? Is**  
23 **that what your question is?**  
24 Q. My -- My question is really just: You -- You  
15:58:53 25 were separated from UPS --

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1 **A. Uh-huh.**  
2 Q. -- around May 1st, 2014, correct?  
3 **A. Uh-huh.**  
4 Q. Would it be fair to say that prior to May 1st,  
15:59:01 5 2014, you were at least periodically taking Ketamine  
6 infusions?  
7 **A. Yes.**  
8 Q. Okay. Would you agree with me that -- that  
9 Ketamine is a -- is very -- Well, let me strike that.  
15:59:27 10 Do you know that Ketamine is used as a  
11 horse sedative, Mr. Gonzalez?  
12 **A. Yes.**  
13 Q. Ketamine is a very strong drug, is it not, in  
14 your experience?  
15:59:37 15 **A. In my experience, yeah, it can be, yes.**  
16 Q. Yeah. Is it your testimony that -- that you  
17 operate a vehicle even while you're taking Ketamine  
18 troches during each day?  
19 **A. That's correct.**  
15:59:51 20 Q. It's your testimony that even though you're  
21 taking these Ketamine troches on a daily basis, you  
22 would still be able to perform your job with UPS?  
23 **A. Yes.**  
24 Q. Do you know a Dr. Jerome Fischer?  
16:00:03 25 **A. Yes.**

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1 Q. Who's Dr. Fischer?  
2 **A. He's a nephrologist.**  
3 Q. Did you say nephrologist?  
4 **A. Yeah. He's a -- Well, it's a kidney doctor.**  
16:00:21 5 Q. Okay. Okay. How long have you been seeing  
6 Dr. Fischer, to the best of your recollection?  
7 **A. I think I've only seen him twice.**  
8 Q. Did you feel like Dr. Fischer provided adequate  
9 treatment for you?  
16:00:31 10 **A. Yes, as far as I know.**  
11 Q. Okay. Do you ever know of him to make  
12 inaccurate statements regarding your medical condition?  
13 **A. No.**  
14 **(Exhibit 16 marked.)**  
16:00:53 15 Q. (By Mr. Barbour) I'll hand you what I've marked  
16 as Exhibit 16 to your deposition, Mr. Gonzalez.  
17 And if you'll look at the back page of  
18 Exhibit 16, second page, would you agree that this  
19 appears to be a report of some type signed by Dr. Jerome  
16:01:29 20 S. Fischer?  
21 **A. Yes.**  
22 Q. Okay. And that is the Dr. Fischer that we just  
23 referenced; is that correct?  
24 **A. Yes.**  
16:01:35 25 Q. Okay. And if you look at Page 1 of Exhibit 16,



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1 this appears to be in relationship to an appointment you  
 2 had with Dr. Fischer on November 18th of 2014; is that  
 3 right?  
 4 **A. Yes.**  
 16:01:45 5 Q. Does that generally match your recollection  
 6 that you were visiting Dr. Fischer as of November 18th,  
 7 2014?  
 8 **A. Yes.**  
 9 Q. Okay. And Dr. Fischer addresses this letter to  
 16:01:57 10 a Dr. Harr; is that right?  
 11 **A. Yes.**  
 12 Q. Who's Dr. Harr?  
 13 **A. She was my primary care physician at the time.**  
 14 Q. Do you have a new primary care physician today?  
 16:02:09 15 **A. I do.**  
 16 Q. Who is that?  
 17 **A. Dr. Manuel Naron, N-A-R-O-N.**  
 18 Q. Is there a particular reason you stopped seeing  
 19 Dr. Harr?  
 16:02:19 20 **A. He did not accept my -- She did not accept my**  
 21 **insurance any longer.**  
 22 Q. Okay. So just insurance ran out and we had to  
 23 go somewhere else?  
 24 **A. Well, I -- Yes.**  
 16:02:31 25 Q. Okay. I'm looking at that first paragraph that

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1 **A. I did.**  
 2 Q. And did you read this document before signing  
 3 it, to the best of your recollection?  
 4 **A. To the best -- Yes.**  
 16:04:31 5 Q. Okay. And do you see at the top of Page 3  
 6 where it has a section titled "Misrepresentation"?  
 7 **A. I do.**  
 8 Q. Okay. And did you understand that paragraph to  
 9 mean that it could potentially be unlawful for you to  
 16:04:49 10 make misleading or incorrect statements in this document  
 11 that is Exhibit 17?  
 12 **A. Yes.**  
 13 Q. I want to go to the first page of Exhibit 3 --  
 14 excuse me -- Exhibit 17, Mr. Gonzalez, where it says,  
 16:05:03 15 "Work history."  
 16 **A. Okay.**  
 17 Q. Okay. Do you see a section where you're  
 18 describing what we've called your franchise consultant  
 19 job with UPS?  
 16:05:17 20 **A. Yes.**  
 21 Q. And in this section -- And you completed this  
 22 less than a year after you had been separated from UPS;  
 23 is that correct?  
 24 **A. Yes, it is.**  
 16:05:29 25 Q. Do you see where it says, "Description of your

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1 begins with "Mr. Gonzalez is a very pleasant 55-year-old  
 2 gentleman." Do you see that?  
 3 **A. I do.**  
 4 Q. Okay. And I agree with that statement. I  
 16:02:45 5 would concur with that.  
 6 A couple of lines down, there's a sentence  
 7 that begins with, "He is on a..." Do you see there?  
 8 **A. Yes.**  
 9 Q. Okay. Does Dr. Fischer write, "He" -- that  
 16:02:55 10 being Mr. Gonzalez -- "is on a number of medications for  
 11 this, which is at least maintaining some stability,  
 12 though it makes him unable to function in the work  
 13 environment"?  
 14 **A. Yes. I see that.**  
 16:03:07 15 Q. And this would have been just six months or so  
 16 after your separation from UPS; is that correct?  
 17 **A. Yes.**  
 18 **(Exhibit 17 marked.)**  
 19 Q. (By Mr. Barbour) I'll hand you what I've marked  
 16:03:49 20 as Exhibit 17, Mr. Gonzalez.  
 21 Is that your signature at the bottom of  
 22 the third page of Exhibit 17, Mr. Gonzalez?  
 23 **A. Yes.**  
 24 Q. And did you sign this document on or around  
 16:04:21 25 April 7th, 2015?

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1 job"?  
 2 **A. Yes.**  
 3 Q. Okay. The -- My copy isn't so good here.  
 4 Could you tell me, what did you write into that box that  
 16:05:41 5 says, "Description of your job"?  
 6 **A. It says, "Eight-hour day." Is that where you**  
 7 **see?**  
 8 Q. Yes.  
 9 **A. Can you read that?**  
 16:05:51 10 Q. Yeah. If you could read that -- what -- what  
 11 you've written in that box, Mr. Gonzalez.  
 12 **A. "Eight-hour day in seated position" -- or**  
 13 **"seated position, talking on phone, entering data on**  
 14 **computer" -- oh, "entering data in computer and taking**  
 16:06:09 15 **notes.**  
 16 **"Research comp" -- "competition strategies**  
 17 **and offerings and use product knowledge to generate**  
 18 **solutions and sales. On phone two and a half to three**  
 19 **and a half hours a day. Approximately 1,200 to"...**  
 16:06:27 20 **I'm not sure.**  
 21 Q. Does it say "Approximately 1,200" to some other  
 22 number of customers "in account base"?  
 23 **A. Yes. Yes. "Customers in account base."**  
 24 Q. And in the very next box, does this Aetna form  
 16:06:45 25 ask you to list those duties you now cannot perform?

53 (Pages 206 to 209)

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<p>1 A. Yes.</p> <p>2 Q. Okay. And what duties of your position with</p> <p>3 UPS did you tell Aetna that you were unable to perform?</p> <p>4 A. "Unable to continue" -- "do continuous</p> <p>16:07:01 5 repetitive movements of upper extremities, decreased</p> <p>6 ability to make decisions due to medication prescribed</p> <p>7 and Ketamine infusion treatment."</p> <p>8 Q. "With diminished sleep cycles and depression,"</p> <p>9 right?</p> <p>16:07:15 10 A. Yes.</p> <p>11 Q. Just to complete the paragraph.</p> <p>12 So as of April 7th, 2015, you were still</p> <p>13 unable or you had decreased ability to make decisions;</p> <p>14 is that correct?</p> <p>16:07:27 15 A. That's -- That's what I stated.</p> <p>16 Q. All right. Well, was that an accurate</p> <p>17 statement to Aetna?</p> <p>18 A. At that time?</p> <p>19 Q. Right. As of April 7th, 2015, that was still</p> <p>16:07:35 20 accurate, that you had a decreased ability to make</p> <p>21 decisions; is that right?</p> <p>22 A. At times, yes.</p> <p>23 Q. Yeah. So as of April 7th, 2015, you still had</p> <p>24 some cognitive restrictions that would have interfered</p> <p>16:07:47 25 with your ability to perform your position with UPS; is</p>	<p>1 wrote on your account to be accurate?</p> <p>2 A. Can -- Can I see the letter?</p> <p>3 Q. Sure.</p> <p>4 (Exhibit 18 marked.)</p> <p>16:09:11 5 Q. (By Mr. Barbour) That's Exhibit 18,</p> <p>6 Mr. Gonzalez.</p> <p>7 And is Exhibit 18 that letter that</p> <p>8 Dr. Naron gave you in relationship to your Aetna</p> <p>9 long-term disability benefits?</p> <p>16:09:31 10 A. Yes.</p> <p>11 Q. He provided you with this letter at your</p> <p>12 request; is that correct?</p> <p>13 A. Yes, he did.</p> <p>14 Q. Okay. And this letter is dated May 11th, 2016;</p> <p>16:09:41 15 is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. So we would now be about two years following</p> <p>18 separation of your employment with UPS. Is that fair?</p> <p>19 A. Yes.</p> <p>16:09:49 20 Q. And in this, he indicates that you -- he's been</p> <p>21 your doctor since November 2015; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And two lines down, does he say, "His</p> <p>24 conditions cause severe pain and limitations with</p> <p>16:10:07 25 movement, not only in his shoulders, but also in his</p>
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<p>1 that right?</p> <p>2 A. I would say what -- what I put down in my</p> <p>3 statement's accurate.</p> <p>4 Q. Okay. What's -- What's written right there is</p> <p>16:07:59 5 accurate as of that date still. Is that fair?</p> <p>6 A. Fair.</p> <p>7 Q. You said Dr. Na -- Naron is now your primary</p> <p>8 care provider?</p> <p>9 A. Yes.</p> <p>16:08:19 10 Q. Did you ever ask Dr. Naron to provide you with</p> <p>11 a letter in relationship to your appeal of the Aetna</p> <p>12 long-term disability benefits?</p> <p>13 A. Yes.</p> <p>14 Q. Did Dr. Naron provide you with that letter?</p> <p>16:08:35 15 A. Yes.</p> <p>16 Q. Did you feel like the letter that Dr. Naron</p> <p>17 gave you was an accurate representation of your</p> <p>18 abilities?</p> <p>19 A. He -- He was a new doctor, so I'm sure he -- he</p> <p>16:08:49 20 wrote based on my history and the records he may have</p> <p>21 had received from my previous primary to the best of his</p> <p>22 ability.</p> <p>23 Q. Okay. And my question, I think, wasn't so much</p> <p>24 what he had written but your impression of it.</p> <p>16:09:03 25 Did -- Did you find the letter that he</p>	<p>1 hands, wrists and elbows on both sides"?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Was that an accurate statement of your</p> <p>4 medical condition, to the best of your knowledge, as of</p> <p>16:10:15 5 May 11th, 2016?</p> <p>6 A. Yes.</p> <p>7 Q. Then does Dr. Naron write, "He requires</p> <p>8 multiple physician visits, and many of his medications</p> <p>9 are sedating, which hinders his ability to find gainful</p> <p>16:10:29 10 employment"?</p> <p>11 A. Yes.</p> <p>12 Q. Was that also an accurate statement of your</p> <p>13 condition as of May 11th, 2016?</p> <p>14 A. Yes. The medications, it wasn't a -- some</p> <p>16:10:45 15 medications were more sedating than others, and there</p> <p>16 was times where some -- I wasn't feeling sedated at all.</p> <p>17 Q. Okay.</p> <p>18 A. I mean --</p> <p>19 Q. But Dr. -- But Dr. Naron does write that</p> <p>16:10:57 20 because of the effects of your sedating medications, you</p> <p>21 are unable to find gainful employment, doesn't he?</p> <p>22 A. Yes, he did.</p> <p>23 (Exhibit 19 marked.)</p> <p>24 Q. (By Mr. Barbour) And I'll hand you what I've</p> <p>16:11:13 25 marked as Exhibit 19 to your deposition, Mr. Gonzalez.</p>

<p style="text-align: right;">Page 214</p> <p>1 THE VIDEOGRAPHER: Excuse me.  2 Mr. Gonzalez, can you lift up your mic?  3 THE WITNESS: Oh, sure. That better?  4 THE VIDEOGRAPHER: Thank you.  16:11:31 5 Q. (By Mr. Barbour) Do you recognize the document  6 that I've marked as Exhibit 19 to your deposition,  7 Mr. Gonzalez?  8 <b>A. Yes.</b>  9 Q. Okay. And is Exhibit 19 a note that Dr. Sledge  16:11:49 10 completed in relationship to your appeal of Aetna's  11 long-term disability benefits denial?  12 <b>A. Yes.</b>  13 Q. Did you review this before Dr. Sledge submitted  14 it to Aetna?  16:12:05 15 <b>A. I don't recall if I reviewed it before he did</b>  16 <b>or not.</b>  17 Q. Okay. Under No. 3, on the first page of  18 Exhibit 19, do you see the sentence that begins with  19 "Based upon"?  16:12:17 20 <b>A. Okay. Tell me again where you're looking.</b>  21 Q. Just No. 3.  22 <b>A. No. 3?</b>  23 Q. On the first page.  24 <b>A. Okay.</b>  16:12:29 25 Q. Yes, sir.</p>	<p style="text-align: right;">Page 216</p> <p>1 question?  2 <b>A. "Yes."</b>  3 Q. Did you also submit some documents to Aetna in  4 December of 2016 in relationship to your appeal of  16:13:39 5 their --  6 <b>A. I --</b>  7 Q. -- denial of long-term disability benefits?  8 <b>A. I may have. I don't recall.</b>  9 Q. If you did submit documents to Aetna, would you  16:13:47 10 have been as accurate as possible in completing them?  11 <b>A. Yes.</b>  12 Q. You wouldn't have misled Aetna, right?  13 <b>A. Correct.</b>  14 Q. I'll hand you what I've marked as Exhibit 20 to  16:13:57 15 your deposition, Mr. Gonzalez.  16 (Exhibit 20 marked.)  17 Q. (By Mr. Barbour) And if you'll go -- Well, do  18 you recognize this document, Mr. Gonzalez?  19 <b>A. Yes.</b>  16:14:13 20 Q. Okay. Is this a form that you hand wrote and  21 then submitted to Aetna in relationship to your  22 long-term disability benefits?  23 <b>A. Yes.</b>  24 Q. Is that your signature at the very bottom of  16:14:25 25 Page 3?</p>
<p style="text-align: right;">Page 215</p> <p>1 <b>A. Yeah. "Based upon conditions." Uh-huh.</b>  2 Q. This forms asks Dr. Sledge, "Based upon the  3 conditions for which you treat Ron Gonzalez, is it" --  4 <b>A. Uh-huh.</b>  16:12:37 5 Q. -- "your opinion that he remains unable to  6 perform any full-time occupation?"  7 <b>A. Yes.</b>  8 Q. What box did Dr. Sledge check there?  9 <b>A. He checked the "yes" box.</b>  16:12:45 10 Q. Dr. Sledge indicates that it was his opinion  11 that you remained unable to perform any full-time  12 occupation; is that correct?  13 <b>A. Yes.</b>  14 Q. And this form is dated December 23rd, 2016; is  16:12:55 15 that correct?  16 <b>A. Yes, it appears to be December.</b>  17 Q. And on the back -- or excuse me -- Page 2 of  18 Exhibit 19, do you see the paragraph that's No. 6?  19 <b>A. I do.</b>  16:13:09 20 Q. And does No. 6 ask Dr. Sledge, "Will you expect  21 excessive absences and below-standard work from this  22 patient due to his impairments if he attempted full-time  23 work?"  24 <b>A. Yes, I see that.</b>  16:13:23 25 Q. Okay. And what was Dr. Sledge's answer to that</p>	<p style="text-align: right;">Page 217</p> <p>1 <b>A. Yes, it is.</b>  2 Q. And did you complete this form on or around  3 December 6th, 2016?  4 <b>A. Yes.</b>  16:14:31 5 Q. I'm looking at the -- the first page of  6 Exhibit -- I believe it's 20. And do you see where  7 Aetna asks you to explain in your own words why you  8 remain unable to perform any full-time occupation?  9 <b>A. I do.</b>  16:14:49 10 Q. Okay. And you responded to that, correct?  11 <b>A. Yes.</b>  12 Q. Right. It -- It was your opinion that you were  13 unable to perform any full-time occupation as of  14 December 2016; is that correct?  16:14:59 15 <b>A. I'm looking to see where I stated that in that</b>  16 <b>paragraph.</b>  17 Q. Well, you answered the question, right?  18 <b>A. Yes, I answered the question.</b>  19 Q. The question seems to be based on the  16:15:11 20 assumption that you were incapable --  21 <b>A. Okay. No. I hadn't read the question.</b>  22 Q. Okay.  23 <b>A. I was looking at the body --</b>  24 Q. Okay.  16:15:17 25 <b>A. -- of my -- what I wrote.</b></p>

<p style="text-align: right;">Page 218</p> <p>1 Q. Right. Well, if I go four lines down, is that</p> <p>2 your handwriting where you say, "I am unable to perform</p> <p>3 any full-time occupation"?</p> <p>4 A. Yes.</p> <p>16:15:27 5 Q. And was that an accurate statement as of</p> <p>6 December 2016?</p> <p>7 A. Yes, it was.</p> <p>8 Q. You were unable to perform any full-time</p> <p>9 occupation at that time?</p> <p>16:15:35 10 A. That's what it -- That's what I wrote.</p> <p>11 Q. And that would include your former job with</p> <p>12 UPS, wouldn't it?</p> <p>13 A. Yes. It would in -- Well, because I requested</p> <p>14 an accommodation of part-time or reduced hours.</p> <p>16:15:49 15 Q. That's a fair point.</p> <p>16 This does say full-time, but it says you</p> <p>17 would be un -- unable to perform any full-time</p> <p>18 occupation as of December 6th, 2016, correct?</p> <p>19 A. Yes.</p> <p>16:16:01 20 Q. Do you see, a couple lines down, the sentence</p> <p>21 that begins with "These medications"?</p> <p>22 A. I do.</p> <p>23 Q. Okay. Does that sentence read, "These</p> <p>24 medications and others I take for depression and anxiety</p> <p>16:16:17 25 result in side effects that limit focus, concentration,</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. This paragraph asked you to identify other</p> <p>2 issues, et cetera, that should be taken into account.</p> <p>3 And do you see your response to that?</p> <p>4 A. I do.</p> <p>16:17:27 5 Q. Could you read the first sentence that you've</p> <p>6 written under that paragraph?</p> <p>7 A. "The amount and strength of opioid and Ketamine</p> <p>8 pain medication taken daily impair my abilities to</p> <p>9 perform FT" -- full-time -- "employment."</p> <p>16:17:41 10 Q. Okay. And was that an accurate statement as of</p> <p>11 December 2016?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. That because of the medications you were</p> <p>14 taking, you couldn't perform any full-time employment?</p> <p>16:17:49 15 A. That's my statement.</p> <p>16 Q. You said you own your home. Is that correct,</p> <p>17 Mr. Gonzalez?</p> <p>18 A. I do have a mortgage, yes.</p> <p>19 Q. Right. And you've had -- How long have you</p> <p>16:18:13 20 lived in that home?</p> <p>21 A. Approximately 13 years.</p> <p>22 Q. Okay. Do you remember submitting a request to</p> <p>23 the Bexar County Appraisal District for a disability</p> <p>24 homestead exemption on that property at 9903 Carolwood?</p> <p>16:18:25 25 A. Yes.</p>
<p style="text-align: right;">Page 219</p> <p>1 mood, irritability, forgetfulness and others"?</p> <p>2 A. Yes.</p> <p>3 Q. So as of December 2016, you still had -- had</p> <p>4 cognitive impairments as a result of the medications you</p> <p>16:16:31 5 were taking, didn't you?</p> <p>6 A. I did have reactions to medications, yes.</p> <p>7 Q. All right. Well, this -- that doesn't just</p> <p>8 indicate reactions, right? This is saying --</p> <p>9 A. Well --</p> <p>16:16:39 10 Q. -- that it results in --</p> <p>11 A. Side effects.</p> <p>12 Q. -- side effects, correct?</p> <p>13 A. Side effects, yes.</p> <p>14 Q. Okay. Including a lack of focus,</p> <p>16:16:45 15 concentration, forgetfulness and others, correct?</p> <p>16 A. Yes, I -- I did have side effects.</p> <p>17 Q. The next paragraph down asks you to list the</p> <p>18 drugs that you take, correct?</p> <p>19 A. Yes.</p> <p>16:16:55 20 Q. And is that an accurate list of the medications</p> <p>21 that you were taking in December of 2016?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. If you'll go to the last page, please,</p> <p>24 Mr. Gonzalez.</p> <p>16:17:17 25 A. (Complying.)</p>	<p style="text-align: right;">Page 221</p> <p>1 Q. And do you remember asking Dr. Sledge to</p> <p>2 complete some forms in relationship to your request for</p> <p>3 a disability homestead exemption?</p> <p>4 A. No, but it's very possible.</p> <p>16:18:41 5 (Exhibit 21 marked.)</p> <p>6 Q. (By Mr. Barbour) Okay. Let me hand you what</p> <p>7 I've marked as Exhibit 21 to your deposition,</p> <p>8 Mr. Gonzalez.</p> <p>9 A. Sir, is it possible to take a break before</p> <p>16:19:01 10 we --</p> <p>11 Q. Sure.</p> <p>12 A. Okay.</p> <p>13 THE VIDEOGRAPHER: The time is 4:19 p.m.,</p> <p>14 and we are off the record.</p> <p>16:19:09 15 (Off the record.)</p> <p>16 THE VIDEOGRAPHER: The time is 4:33 p.m.,</p> <p>17 and we are on the record.</p> <p>18 Q. (By Mr. Barbour) Mr. Gonzalez, are you ready to</p> <p>19 proceed, sir?</p> <p>16:33:57 20 A. Yes, sir.</p> <p>21 Q. Are there any answers that you want to change</p> <p>22 at this time?</p> <p>23 A. Not at this time.</p> <p>24 Q. Prior to the break, I had handed you what I've</p> <p>16:34:05 25 marked as Exhibit 21. Do you have that document?</p>

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1 **A. I do.**  
 2 Q. And I don't recall your testimony. Did you  
 3 indicate that you had or had not seen this document  
 4 previously?  
 16:34:13 5 **A. I have.**  
 6 Q. Okay. And this was a document that Dr. Sledge  
 7 completed in relationship to your application for a  
 8 Texas disability homestead exemption; is that correct?  
 9 **A. Yes.**  
 16:34:23 10 Q. Do you know if your application for a homestead  
 11 disability exemption was approved by the Bexar County  
 12 Appraisal District?  
 13 **A. Yes, I do.**  
 14 Q. Okay. You do know. And it was approved, was  
 16:34:37 15 it not?  
 16 **A. It was, yes.**  
 17 Q. And you have the disability homestead exemption  
 18 until this day; is that correct?  
 19 **A. Yes.**  
 16:34:43 20 Q. You have not notified the Bexar County  
 21 Appraisal District that, in your opinion, you no longer  
 22 qualify for that exemption, have you?  
 23 **A. I have not.**  
 24 Q. Okay. And I don't want to bore you with the  
 16:34:55 25 legal verbiage, but do you see the section beginning

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1 **A. Yes.**  
 2 Q. Okay. And Dr. Sledge is asked when he expects  
 3 you to be able to return to work. And what is his  
 4 answer to that question?  
 16:36:03 5 **A. It's "unknown."**  
 6 Q. And Dr. Sledge completed this document on  
 7 December 18th, 2013; is that correct?  
 8 **A. That's correct.**  
 9 Q. And you authorized him to submit this to the  
 16:36:13 10 Bexar County Appraisal District on your behalf, did you  
 11 not?  
 12 **A. Yes, I did.**  
 13 Q. Okay. Now, you submitted a charge of  
 14 discrimination to the EEOC in relationship to your  
 16:36:29 15 termination of employment at UPS, didn't you?  
 16 **A. I did.**  
 17 Q. And did Mrs. Gonzalez work at the EEOC at that  
 18 time?  
 19 **A. No.**  
 16:36:39 20 Q. She did not. Had she already separated from  
 21 the EEOC?  
 22 **A. She has never worked for the EEOC.**  
 23 Q. Is that correct? Okay. I apologize.  
 24 **A. That's okay.**  
 16:36:57 25 **(Exhibit 22 marked.)**

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1 with, "Physician, please provide the following  
 2 information," about halfway down that page?  
 3 **A. Yes.**  
 4 Q. And does Dr. Sledge indicate how long he had  
 16:35:07 5 treated you for your disabling condition?  
 6 **A. Yes.**  
 7 Q. And when does he indicate his care for you  
 8 began?  
 9 **A. March 12th, 2013.**  
 16:35:17 10 Q. Okay. And does that more or less reflect your  
 11 recollection as to when Dr. Sledge began treating you?  
 12 **A. Yes.**  
 13 Q. In terms of your disabling condition, would  
 14 that be your CRPS?  
 16:35:29 15 **A. Yes.**  
 16 Q. Okay. And that disabling condition is one you  
 17 still suffer from today; is that correct?  
 18 **A. Yes.**  
 19 Q. And was it your testimony that that's not a  
 16:35:39 20 condition that can be cured, but it's one that is  
 21 basically managed over a length of time?  
 22 **A. That's correct. It is chronic and man --**  
 23 **man -- and managed.**  
 24 Q. Okay. Under No. 2, Dr. Sledge indicates that  
 16:35:51 25 you last worked on April 18th, 2013; is that correct?

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1 Q. (By Mr. Barbour) I'm going to hand you what  
 2 I've marked as Exhibit 22. It's your charge of  
 3 discrimination, Mr. Gonzalez.  
 4 And do you recognize Exhibit 22 --  
 16:37:43 5 **A. 22.**  
 6 Q. -- Mr. Gonzalez?  
 7 **A. Yes. Yes, sir.**  
 8 Q. And is this the charge of discrimination that  
 9 you filed with the EEOC?  
 16:37:49 10 **A. It is.**  
 11 Q. And did you sign this document on or around  
 12 May 22nd, 2014?  
 13 **A. Yes, I did.**  
 14 Q. Okay. Did you do your best to be as forthright  
 16:37:57 15 and honest as possible --  
 16 **A. Yes.**  
 17 Q. -- in completing this charge of discrimination?  
 18 **A. Yes.**  
 19 Q. And do you see the bottom left-hand corner  
 16:38:07 20 there's a signature? Is there not?  
 21 **A. Yes, there is.**  
 22 Q. And that's your signature, isn't it?  
 23 **A. Yes.**  
 24 Q. And you understood you were signing that charge  
 16:38:15 25 of discrimination under penalty of perjury, didn't you?

57 (Pages 222 to 225)

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<p>1 A. Yes.</p> <p>2 Q. Now, in that charge of discrimination, you</p> <p>3 complained that UPS had discriminated against you and</p> <p>4 retaliated against you; is that correct?</p> <p>16:38:29 5 A. Yes.</p> <p>6 Q. Is that charge of discrimination the first time</p> <p>7 that you had complained of discrimination or retaliation</p> <p>8 by UPS?</p> <p>9 A. Yes.</p> <p>16:38:47 10 (Exhibit 23 marked.)</p> <p>11 Q. (By Mr. Barbour) I'm handing you what I've</p> <p>12 marked as Exhibit 23 to your deposition, Mr. Gonzalez.</p> <p>13 And this is an amended charge of</p> <p>14 discrimination that you've filed with the EEOC, is it</p> <p>16:39:05 15 not?</p> <p>16 A. Yes, it is.</p> <p>17 Q. Okay. And, again, that's your signature in the</p> <p>18 lower left-hand corner, correct?</p> <p>19 A. Yes. Correct.</p> <p>16:39:11 20 Q. And that's dated March 4th, 2015?</p> <p>21 A. Yes.</p> <p>22 Q. And there -- there's some handwritten notes</p> <p>23 with what appears to be "RGs" next to them; is that</p> <p>24 correct?</p> <p>16:39:19 25 A. Yes.</p>	<p>1 Q. (By Mr. Barbour) Okay. I'll hand you</p> <p>2 Exhibit 24 to your deposition, Mr. Gonzalez.</p> <p>3 Can you identify that document?</p> <p>4 A. Yes, I recognize it.</p> <p>16:40:43 5 Q. What is this document?</p> <p>6 A. It's an e-mail to Minerva Melendreras at the</p> <p>7 EEOC.</p> <p>8 Q. Okay. And did you send this e-mail on or</p> <p>9 around March 4th, 2015?</p> <p>16:40:59 10 A. Yes.</p> <p>11 Q. And were you as honest and forthright as</p> <p>12 possible when drafting this e-mail to Ms. Melendreras?</p> <p>13 A. Yes.</p> <p>14 (Exhibit 25 marked.)</p> <p>16:41:27 15 Q. (By Mr. Barbour) Okay. Finally, on this note,</p> <p>16 I will hand you Exhibit 25, Mr. Gonzalez.</p> <p>17 Do you recognize this document?</p> <p>18 A. Yes.</p> <p>19 Q. And is this also a memo that you submitted to</p> <p>16:41:57 20 Ms. Melendreras, the EEOC investigator?</p> <p>21 A. Yes.</p> <p>22 Q. And did you submit this on or around July 17th,</p> <p>23 2015?</p> <p>24 A. Yes, I did.</p> <p>16:42:05 25 Q. Did you personally write this letter?</p>
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<p>1 Q. Okay. Are those notes that you personally</p> <p>2 made?</p> <p>3 A. Yeah. I -- Yes, I did.</p> <p>4 Q. All right. Yeah. So, for example, when it's</p> <p>16:39:29 5 handwritten, "and I used Family Medical Act Leave,"</p> <p>6 that --</p> <p>7 A. Yes.</p> <p>8 Q. -- that's your own handwriting, correct?</p> <p>9 A. Yes.</p> <p>16:39:35 10 Q. Okay. Otherwise, does the content of your</p> <p>11 amended charge of discrimination appear to be true and</p> <p>12 correct to you?</p> <p>13 A. Yes.</p> <p>14 Q. And did you believe it to be true and correct</p> <p>16:39:43 15 when you submitted it to the EEOC?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall earlier when we discussed a</p> <p>18 memorandum or an e-mail you had submitted to the EEOC in</p> <p>19 relationship to their investigation of your charge?</p> <p>16:40:23 20 A. Yes.</p> <p>21 Q. Okay. Do you recall submitting a couple other</p> <p>22 e-mails to the EEOC providing information that you</p> <p>23 deemed relevant to their investigation?</p> <p>24 A. Yes.</p> <p>16:40:09 25 (Exhibit 24 marked.)</p>	<p>1 A. Yes, I did.</p> <p>2 Q. Okay. And were you as honest and forthright as</p> <p>3 possible in drafting this July 17th memorandum to</p> <p>4 Ms. Melendreras?</p> <p>16:42:23 5 A. Yes.</p> <p>6 Q. When I look at the third page of Exhibit 25,</p> <p>7 Mr. Gonzalez, do you see a bolded paragraph that begins</p> <p>8 with the number "4"?</p> <p>9 A. I do.</p> <p>16:42:35 10 Q. Okay. No. 4 says, "I provided two comparators,</p> <p>11 but UPS has not explained why these comparators received</p> <p>12 accommodations and remained employed when I did not."</p> <p>13 Is that correct?</p> <p>14 A. Yes.</p> <p>16:42:47 15 Q. What do you mean by that sentence?</p> <p>16 A. That there was two individuals that were often</p> <p>17 out of work days to weeks at a time --</p> <p>18 Q. Who were the --</p> <p>19 A. -- and --</p> <p>16:42:59 20 Q. Oh. Go ahead, Mr. Gonzalez.</p> <p>21 A. And they were able to return to work.</p> <p>22 Q. Okay. Who were those two individuals?</p> <p>23 A. Randy Swearingen and Douglas Klinger.</p> <p>24 Q. Would that be Rodney Swearingen?</p> <p>16:43:15 25 A. Yes. Rodney. That's correct. Rodney.</p>

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1 Q. Those -- Those are the two individuals you're  
2 speaking of, correct?  
3 **A. Yes.**  
4 Q. Okay. And your complaint was that they had  
16:43:23 5 previously taken time off but were -- were allowed to  
6 return to work whereas you took time off and UPS didn't  
7 let you come back; is that correct?  
8 **A. Correct.**  
9 Q. It is correct that you had previously taken  
16:43:35 10 time off yourself; is that right?  
11 **A. Uh-huh. Uh-huh.**  
12 Q. In fact, isn't it accurate that in 2009, 2011  
13 and 2012, you took medical leaves of -- leaves of  
14 absence but were able to come back to work?  
16:43:47 15 **A. Yes.**  
16 Q. Okay. What is Mr. Swearingen's race?  
17 **A. White, as far as I know.**  
18 Q. What's Mr. Klinger's race?  
19 **A. Also white.**  
16:43:59 20 Q. To the best of your knowledge, does  
21 Mr. Swearingen have a disability?  
22 **A. I know he has a chronic condition. I don't**  
23 **know about the disability.**  
24 Q. What chronic condition do you know he has?  
16:44:15 25 **A. I believe he's got a heart condition.**

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1 Q. And what about Mr. Klinger? Does -- Does he  
2 have any disabilities or medical conditions, to the best  
3 of your knowledge?  
4 **A. He's got a medical condition.**  
16:44:25 5 Q. What is his medical condition?  
6 **A. I am not sure.**  
7 Q. You have no personal knowledge as to that?  
8 **A. No.**  
9 Q. But you said you do know he has a medical  
16:44:37 10 condition?  
11 **A. Yeah. I don't recall his condition.**  
12 Q. Okay. You don't know what it is?  
13 **A. No.**  
14 Q. Okay.  
16:44:43 15 **A. I don't recall.**  
16 Q. When did Mr. Swearingen take a leave and be  
17 allowed to return to work?  
18 **A. Throughout the period I worked as a franchise**  
19 **sales consultant.**  
16:45:03 20 Q. Do you recall the dates of that?  
21 **A. The last year or so I was in that position.**  
22 Q. Okay. Sometime in 2012, 2013?  
23 **A. Yes, sir.**  
24 Q. Okay. What about Mr. Klinger? When did he  
16:45:17 25 take leave?

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1 **A. It was during that same time frame. And**  
2 **they -- I believe that they also took time prior to**  
3 **that, but I don't have any dates.**  
4 Q. Okay. And how do you know that they took  
16:45:31 5 leaves of absence?  
6 **A. Because, as I mentioned, we -- we worked in the**  
7 **same group in the same office. There's a group of 12,**  
8 **maybe 13 of us.**  
9 Q. Okay. So you just noticed that they weren't  
16:45:43 10 there?  
11 **A. Yes.**  
12 Q. Did you ever discuss Mr. Swearingen's leaves  
13 of -- leaves of absence with him?  
14 **A. No.**  
16:45:49 15 Q. Did you ever discuss Mr. Klinger's leaves of  
16 absence with him?  
17 **A. No.**  
18 Q. Did you ever dis -- I take it you also never  
19 discussed their medical conditions with either of them.  
16:45:59 20 **A. Correct. I did not.**  
21 Q. Okay. Do you know whether Mr. Swearingen ever  
22 requested an accommodation -- a job-related  
23 accommodation from UPS?  
24 **A. I don't know for sure.**  
16:46:13 25 Q. Do you know whether Mr. Klinger ever requested

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1 a job-related accommodation from UPS?  
2 **A. I do not.**  
3 Q. So if they had, you wouldn't have any personal  
4 knowledge as to what types of accommodations they had  
16:46:25 5 requested, would you?  
6 **A. No, I wouldn't.**  
7 Q. Do you know whether Mr. Swearingen ever took a  
8 leave of absence under the Family Medical Leave Act?  
9 **A. I do not know.**  
16:46:35 10 Q. Do you know whether Mr. Klinger ever took a  
11 leave of absence under the Family Medical Leave Act?  
12 **A. No, I do not know.**  
13 Q. Did you ever see any paperwork that contained  
14 Mr. Swearingen's medical restrictions?  
16:46:47 15 **A. No.**  
16 Q. Did you ever see any paperwork that contained  
17 Mr. Klinger's medical restrictions?  
18 **A. No.**  
19 Q. Did any other UPS employees ever discuss with  
16:46:55 20 you what Mr. Swearingen's medical restrictions were?  
21 **A. No.**  
22 Q. Did any other UPS employee ever discuss with  
23 you what Mr. Klinger's medical restrictions were?  
24 **A. No.**  
16:47:05 25 Q. Did anyone at UPS ever tell you that either of



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1     them had taken FMLA leave?  
2     **A. No.**  
3     Q. Okay. Did anyone at UPS ever tell you that  
4     they had been approved for or denied a reasonable  
16:47:17 5     accommodation?  
6     **A. No. No.**  
7     Q. Okay. Do you know if either of them had  
8     cognitive impairments at any point in time when they  
9     attempted to return to work?  
16:47:29 10    **A. Not knowing their condition other than Rodney's**  
11    **heart condition, no.**  
12    Q. You say that Rodney had a heart condition; is  
13    that --  
14    **A. I believe he had a heart condition.**  
16:47:43 15    Q. Okay. And what's that based on? How -- How do  
16    you think he had a heart condition?  
17    **A. Just in conversation in the group, just**  
18    **overhearing him talk about that and the other ISRs**  
19    **talking about it.**  
16:47:55 20    Q. So that would have been based on what  
21    Mr. Swearingen himself told you or what other ISRs told  
22    you?  
23    **A. Well, he -- he didn't tell me directly. It was**  
24    **just -- We weren't having a conversation about it, but**  
16:48:07 25    **it's what I made -- I overheard them talking about when**

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1     **he was out, when he came back, why he was out.**  
2     Q. No UPS management ever told you that  
3     Mr. Swearingen had a heart condition, did they?  
4     **A. No.**  
16:48:21 5     Q. Do you know whether any of those individuals  
6     were ever diagnosed as having restrictions in their  
7     ability to make decisions?  
8     **A. No.**  
9     Q. Do you know whether Mr. Swearingen or  
16:48:37 10    Mr. Klinger were ever diagnosed as having restrictions  
11    in their ability to focus or concentrate?  
12    **A. No. I'm just not aware of their condition to**  
13    **know that.**  
14    Q. Okay. All right. As we've discussed at  
16:49:07 15    length, you've sued UPS, correct?  
16    **A. Yes.**  
17    Q. Right. And I'm sure you're seeking a variety  
18    of types of damages, correct?  
19    **A. Yes.**  
16:49:13 20    Q. Okay. And I don't want to discuss that on a  
21    legal level with you, but I do have some questions for  
22    you.  
23    **A. Okay.**  
24    Q. Do you know what -- what backpay is, or lost  
16:49:25 25    wages?

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1     **A. Yes. I have an idea.**  
2     Q. Okay. And do you understand that you're  
3     seeking lost wages from UPS in this case?  
4     **A. Yes.**  
16:49:35 5     Q. Okay. And is it your testimony that -- that  
6     you've been able to perform work, be it for UPS or  
7     someone else, ever since the time that UPS terminated  
8     your employment on or around May 1st of 2014?  
9     **A. My way I feel is that I -- with an -- an**  
16:49:59 10    **accommodation, when I first started looking for work,**  
11    **when I felt I was able to return to work to UPS, that I**  
12    **could have with a restriction -- or I'm sorry -- with an**  
13    **accommodation.**  
14    Q. Okay. With an accommodation from UPS or from  
16:50:11 15    any other employer, correct?  
16    **A. Well, at the time, it was with UPS. I wanted**  
17    **my job back and benefits back.**  
18    Q. Okay. I think -- Correct me if I'm wrong, you  
19    had testified earlier that you feel like your perform --  
16:50:25 20    you're capable of performing most sales jobs today,  
21    don't you?  
22    **A. I do. And I also mentioned, you know, I may**  
23    **need accommodations after I spoke with my physicians.**  
24    Q. Okay. And whatever accommodations you received  
16:50:39 25    or asked for would be negotiated, for lack of a better

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1     word, with that potential employer, would it not?  
2     **A. It -- It may. It's very possible, yes.**  
3     Q. And you indicated to me that you --  
4     **A. Depends on -- I'm sorry. Go ahead.**  
16:50:53 5     Q. No. Go ahead. No. Go ahead, please,  
6     Mr. Gonzalez.  
7     **A. I'm sorry to interrupt.**  
8     **It -- It's -- It's contingent upon --**  
9     **contingent upon the -- what my physicians are saying, as**  
16:51:03 10    **well.**  
11    Q. Okay.  
12    **A. Yeah.**  
13    Q. And -- And we've looked at a variety of  
14    doctors' notes here today.  
16:51:07 15    **A. We have.**  
16    Q. And you would agree with me that we've looked  
17    at many doctors' notes wherein your physicians indicate  
18    that they don't think that you're capable of working; is  
19    that correct?  
16:51:19 20    **A. That is correct.**  
21    Q. Okay. You said you had worked in the sales  
22    industry for 20 years; is that right?  
23    **A. No. That was your number.**  
24    Q. Okay. I rounded up potentially.  
16:51:27 25    **A. Yeah. It's closer to 30.**

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1 Q. Okay. Okay. I apologize. I guess I rounded  
2 down then.  
3 **A. You rounded down.**  
4 Q. Let's see.  
16:51:31 5 **A. That's it.**  
6 Q. You've got 30 years of experience in the sales  
7 industry?  
8 **A. Yes.**  
9 Q. You told me that you enjoyed that type of work.  
16:51:39 10 **A. Yes.**  
11 Q. All right. You told me that you felt like you  
12 were good at that type of work.  
13 **A. Yes.**  
14 Q. Where have you applied for sales jobs in the  
16:51:45 15 last three years, Mr. Gonzalez?  
16 **A. I submitted a list of -- of employers to you.**  
17 Q. Uh-huh. I can -- And I can go through that  
18 list --  
19 **A. To all --**  
16:51:57 20 Q. -- if you'd like to.  
21 **A. Well, I -- I can name a sum of the ones that**  
22 **I've applied to.**  
23 **I've applied to Pearson. I've applied to**  
24 **USAA, Security Service Federal Credit Union, American**  
16:52:11 25 **Express. Those are some.**

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1 Q. Okay. You applied to Security Service in  
2 February of 2014; is that correct?  
3 **A. That sounds -- sounds correct. I don't recall**  
4 **exactly.**  
16:52:23 5 Q. Okay. And I'll represent to you that in some  
6 documents that your attorney and I exchanged, it  
7 indicated --  
8 **A. Okay.**  
9 Q. -- that that was the date that you applied with  
16:52:31 10 Security Service.  
11 That was before you were separated from  
12 employment with UPS, wasn't it?  
13 **A. Before I was em -- Say that one more time. I'm**  
14 **sorry.**  
16:52:39 15 Q. Yes, sir. You applied for Security Service  
16 sometime in February of 2014; is that right?  
17 **A. Yes. That sounds right.**  
18 Q. Okay.  
19 **A. Yes.**  
16:52:47 20 Q. And you weren't terminated from UPS until  
21 May of 2014; is that right?  
22 **A. I -- I don't remember.**  
23 Q. Okay. Do you know when you applied to work for  
24 USAA?  
16:52:59 25 **A. It's within the past couple of years.**

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1 Q. Okay. It wasn't in February of 2014?  
2 **A. It may have been, sir.**  
3 Q. Okay. Did you retain any doc -- How did you  
4 apply? Through USAA's online portal?  
16:53:15 5 **A. Yes.**  
6 Q. Okay. Did you retain any documents in  
7 relationship to that application?  
8 **A. I don't recall retaining any, no.**  
9 Q. Okay. Do you know whether you would have any  
16:53:21 10 documents that show when you applied to work for USAA?  
11 **A. I didn't retain any documents. I don't know.**  
12 Q. Okay. What about Pearson? Did you retain any  
13 documents in relationship to your employment with  
14 Pearson?  
16:53:33 15 **A. No.**  
16 Q. Okay. You said you had applied for work at  
17 Amex; is that correct?  
18 **A. Yes.**  
19 Q. Okay. You had also applied for work with a  
16:53:49 20 company named My Work Options?  
21 **A. Correct.**  
22 Q. Okay. What type of work does My Work Options  
23 do, to the best of your knowledge?  
24 **A. It's at-home work.**  
16:54:01 25 Q. Okay. And you had applied for work with Amazon

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1 Flex?  
2 **A. Yes.**  
3 Q. Okay. Is that some type of independent  
4 delivery driver --  
16:54:13 5 **A. Yes.**  
6 Q. -- for Amazon?  
7 **A. Correct.**  
8 Q. And you had applied for work with Uber; is that  
9 correct?  
16:54:17 10 **A. Yes.**  
11 Q. And none of these places hired you; is that  
12 right?  
13 **A. That's right.**  
14 Q. Did any of these companies indicate why they  
16:54:23 15 were not hiring you?  
16 **A. No.**  
17 Q. Did anyone indicate that they weren't hiring  
18 you because of anything UPS had said or done?  
19 **A. They did not indicate that, no.**  
16:54:33 20 Q. Okay. Other than the companies we've just  
21 discussed, have you applied for work anywhere else in  
22 the last three-plus years?  
23 **A. Yes.**  
24 Q. Where?  
16:54:43 25 **A. I've applied for -- It's an on-site company**

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1 called HVAC Agent.  
 2 Q. HVAC Agent?  
 3 A. I believe it's called HVAC Agent.  
 4 Q. Okay. What type of work did you apply for with  
 16:55:05 5 them?  
 6 A. Heating, ventilating, air-conditioning sales.  
 7 Q. Okay. When approx -- Well, is that a  
 8 San Antonio company?  
 9 A. No. It's a -- It's kind -- It's kind of like  
 16:55:17 10 an Indeed or Monster. It's an Internet-based --  
 11 Q. Okay.  
 12 A. -- for at -- HVAC jobs.  
 13 Q. When did you submit that application?  
 14 A. It's -- I'm going to have to guess.  
 16:55:29 15 Approximately a year --  
 16 Q. Okay.  
 17 A. -- year and a half.  
 18 Q. Other than the companies we've discussed, are  
 19 there any other places or employers with whom you recall  
 16:55:37 20 submitting applications for employment since May 2014?  
 21 A. Yes. I recall applying through USA Jobs.  
 22 Q. Okay. I think we've discussed that.  
 23 A. USA Jobs? The government jobs that --  
 24 Q. Oh, USA Jobs. Okay. I apologize. I heard  
 16:55:57 25 "USAA."

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1 A. Yeah. USAA -- Yeah.  
 2 Q. Got you.  
 3 A. No. It's very close to the same, yes.  
 4 Q. Okay. Any other companies you've applied for  
 16:56:01 5 work with since May 2014?  
 6 A. There probably is. I don't recall right now.  
 7 Q. Did you keep a list of the places with whom  
 8 you've applied for work?  
 9 A. The list that you have for sure, and I would  
 16:56:13 10 have to see if I can -- I'd have to look to see if I've  
 11 got, like, e-mail documents on the others.  
 12 Q. Okay. Have you searched your e-mail for  
 13 documents related to applications you've submitted for  
 14 employment?  
 16:56:27 15 A. Have I searched my e-mails? No.  
 16 Q. Yes, sir. Okay.  
 17 A. No.  
 18 Q. Have you searched your e-mails -- I'm talking  
 19 specifically about your rong@live.com e-mail address,  
 16:56:41 20 Mr. Gonzalez.  
 21 Have you searched that e-mail account for  
 22 e-mails you've sent to or received from U -- UPS  
 23 employees in relationship to your termination of  
 24 employment?  
 16:56:51 25 A. To UPS employees?

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1 Q. Yes.  
 2 A. E-mails to them? No.  
 3 Q. Yes.  
 4 Have you searched for e-mails to or from  
 16:56:59 5 UPS employees in relationship to your request for  
 6 accommodation, in that e-mail account?  
 7 A. No, not that I recall. I mean, the only  
 8 correspondence I recall is during, you know, the request  
 9 for accommodation and checklist time.  
 16:57:11 10 Q. Okay. And I'm specif -- I'm -- I'm  
 11 specifically asking whether you've searched your e-mail  
 12 account for those types of e-mails.  
 13 A. No.  
 14 Q. Have you spoken with any UPS employees  
 16:57:29 15 regarding your claims in this lawsuit in the last year?  
 16 A. No.  
 17 Q. Have you spoken with any former UPS employees  
 18 regarding your claims in this lawsuit in the last year?  
 19 A. No.  
 16:57:39 20 Q. Have you spoken with any former or current UPS  
 21 employees at all in the last year?  
 22 A. Spoken with, no.  
 23 Q. Have you e-mailed with anyone?  
 24 A. No.  
 16:57:47 25 Q. Have you texted with anyone?

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1 A. No.  
 2 Q. Was there a reason you said "spoken with" other  
 3 than just saying you haven't communicated?  
 4 A. Just seeing some things on Facebook.  
 16:57:57 5 Q. Okay. Okay. So social media and things like  
 6 that?  
 7 A. Yeah.  
 8 Q. Have you sent any Facebook messages --  
 9 A. No.  
 16:58:03 10 Q. -- to UPS employees?  
 11 A. No.  
 12 Q. Okay.  
 13 A. I just, you know --  
 14 Q. I understand.  
 16:58:05 15 A. -- can't help but be truthful.  
 16 Q. Again, you know, I don't want to quiz you about  
 17 legal issues, Mr. Gonzalez, but in this lawsuit, are you  
 18 seeking any type of remedy from the Court for emotional  
 19 pain or suffering, or anything like that, that you  
 16:58:19 20 believe UPS has caused you?  
 21 A. I am not familiar with what I would be --  
 22 how -- what I'd be remedied.  
 23 Q. Okay. Let me ask you this: Do you believe  
 24 that UPS has caused you to suffer emotionally?  
 16:58:33 25 A. Yes.

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1 Q. Okay. And what type of, for lack of a better  
2 word, mental anguish do you personally, just in your  
3 individual capacity --  
4 **A. Sure. Sure.**  
16:58:47 5 Q. -- believe UPS has caused you?  
6 **A. Well, once I lost my -- lost my job, I lost my**  
7 **benefits and I lost the -- the benefits package which I**  
8 **had, which were my health insurance for myself and my**  
9 **family.**  
16:59:03 10 **And the health insurance I have now is**  
11 **not -- it's not a group plan, so it's not nearly as good**  
12 **and I don't receive the same treatment I used to.**  
13 Q. Okay. I certainly don't want to belabor any  
14 personal issues, but there are some questions I have to  
16:59:23 15 ask, Mr. Gonzalez.  
16 You indicated that you suffered from  
17 depression for 20-or-so years; is that correct?  
18 **A. Yes.**  
19 Q. So that depression would predate anything in  
16:59:33 20 relationship to your employment with UPS; is that  
21 correct?  
22 **A. Correct.**  
23 Q. Okay. Will you tell the ladies and gentlemen  
24 of the jury that your termination from UPS had any  
16:59:41 25 impact on your marriage?

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1 **A. Yes.**  
2 Q. And what type of impact would you contend that  
3 your termination from UPS had on your marriage?  
4 **A. Just lots of pressure on the relationship and**  
16:59:53 5 **being a provider for my family -- for my wife and for my**  
6 **family financially, insurance coverage, bills, medical**  
7 **bills.**  
8 Q. Were -- Were you and Mrs. Gonzalez going to any  
9 type of marital counseling or therapy prior to your  
17:00:17 10 termination of employment at UPS?  
11 **A. I had been, yes.**  
12 Q. Okay. You had.  
13 **A. Yeah. No. She has been, too, prior to.**  
14 Q. Okay. So to the extent that there were any  
17:00:25 15 types of those marital issues, they would at least, in  
16 part, predate anything UPS did that's a claim in this  
17 lawsuit?  
18 **A. I continued to go afterwards.**  
19 Q. So you go now. But I -- I guess my point or my  
17:00:43 20 question being: You were seeking marital counseling  
21 before UPS denied your request for accommodation or  
22 terminated your employment; is that correct?  
23 **A. That also is correct. There -- There's an**  
24 **escalation point. I mean, part of the reasons we go**  
17:00:57 25 **to -- or some people go to therapy or to see a counselor**

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1 **is due to life issues and conditions, things that**  
2 **happen --**  
3 Q. Okay.  
4 **A. -- and this is one.**  
17:01:07 5 Q. And you would agree that your underlying  
6 medical condition, your CRPS or RSD, is not the work --  
7 not the result of a work-related accident that you  
8 suffered at UPS; is that correct?  
9 **A. In part.**  
17:01:23 10 Q. In what part?  
11 **A. I -- When I first was diagnosed with carpal**  
12 **tunnel release -- or carpal tunnel, I was -- I had asked**  
13 **the HR -- I'm not sure her title -- Carmen Elizondo, I**  
14 **asked her if I should -- if I should go to -- through**  
17:01:51 15 **workman's comp to get it -- believing that it was a work**  
16 **issue, if I should go through workman's comp to get it**  
17 **addressed, and she -- she recommended no.**  
18 Q. This would have been back when you were having  
19 your first carpal tunnel --  
17:02:11 20 **A. Yes.**  
21 Q. -- surgery?  
22 **A. Correct.**  
23 Q. So in 2009 or so?  
24 **A. Yes.**  
17:02:15 25 Q. And it's your testimony that you asked

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1 Ms. Elizondo whether you should file a workers' comp  
2 claim?  
3 **A. Correct.**  
4 Q. Did you disagree with her that you should  
17:02:25 5 not -- that in your opinion you should file a workers'  
6 comp claim?  
7 **A. I -- I wasn't being fairly -- Well, just being**  
8 **with UPS for that -- that period of time, at the time I**  
9 **wasn't so sure what I should do, so that's why I asked**  
17:02:43 10 **HR. That's why I asked her.**  
11 Q. And my question is: Did you disagree with  
12 Ms. Gon -- Ms. Elizondo?  
13 **A. Well, I made the decision to -- based on what**  
14 **she told me, to get my own private doctor.**  
17:02:55 15 Q. I still don't know that I know your answer to  
16 my question, Mr. Gonzalez.  
17 **A. All right. Ask the --**  
18 Q. Did -- Did -- Did --  
19 **A. -- question again, and I'll answer it more**  
17:03:05 20 **directly.**  
21 Q. Well, your -- your carpal tunnel back in 2009,  
22 did you believe --  
23 **A. Uh-huh.**  
24 Q. -- that was a work-related injury?  
17:03:09 25 **A. I did.**

63 (Pages 246 to 249)

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1 Q. Did you file a workers' comp claim?  
 2 **A. No.**  
 3 Q. Did you hire an attorney to seek out workers'  
 4 compensation benefits for you?  
 17:03:17 5 **A. No, sir.**  
 6 Q. You had previously been represented by an  
 7 employment attorney, hadn't you?  
 8 **A. Yes.**  
 9 Q. The folks who sued Oslin National on your  
 17:03:27 10 behalf?  
 11 **A. Oslin Nation, yes.**  
 12 Q. Oslin Nation. Excuse me.  
 13 All right. Mr. Gonzalez, have you  
 14 understood my questions today, sir?  
 17:03:37 15 **A. Yes.**  
 16 Q. Are there any answers that you want to change  
 17 at this time?  
 18 **A. No, sir, not at this time.**  
 19 Q. All right. Thank you for your time.  
 17:03:43 20 MR. BARBOUR: And I'll pass the witness.  
 21 THE WITNESS: Okay.  
 22 (5:03 p.m.)  
 23 EXAMINATION  
 24 BY MR. CRANE:  
 17:03:45 25 Q. I have a couple questions.

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1 THE WITNESS: That was accurate.  
 2 Q. (By Mr. Crane) Did you write this at a time  
 3 that you had a better memory of what Carmen had told  
 4 you?  
 17:04:53 5 MR. BARBOUR: Objection; leading.  
 6 THE WITNESS: Yes.  
 7 Q. (By Mr. Crane) And then, a little further down,  
 8 it says, "On April 10th, 2014, I was told by  
 9 Mr. Hawthorne that I needed to come back with a" -- "a  
 17:05:01 10 full" -- "a release with no restrictions."  
 11 Is that what you say?  
 12 MR. BARBOUR: Objection; leading.  
 13 THE WITNESS: Yes.  
 14 Q. (By Mr. Crane) Was that accurate at the time?  
 17:05:07 15 **A. Yes, sir.**  
 16 Q. Do you still believe that today?  
 17 **A. I do.**  
 18 Q. And if you'll look at the bottom of the page,  
 19 it -- apparently this is a question to you from  
 17:05:19 20 Ms. Melendreras. And she asks you what accommodation  
 21 you are seeking, and you say, "To work four hours a day,  
 22 five days per week, per my doctor's recommendations."  
 23 Is that what you say?  
 24 **A. Yes, I do.**  
 17:05:31 25 Q. Was that accurate at the time?

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1 Now I'm showing you what's marked  
 2 Exhibit No. 24.  
 3 **A. Okay.**  
 4 Q. I'm Tom Crane. I represent the plaintiff.  
 17:04:11 5 You testified earlier, Mr. Gonzalez, that  
 6 this was an e-mail you sent to Ms. Melendreras at the  
 7 EEOC; is that correct?  
 8 **A. Yes, sir.**  
 9 Q. And it looks like, on the first -- I'm looking  
 17:04:21 10 at the first page. It says, "I know you told me one of  
 11 the managers had told you that if you did not come back  
 12 with a full clearance, they would not bring you back."  
 13 Do you see that first portion?  
 14 **A. Yes.**  
 17:04:29 15 Q. And then, it looks like, in response to that,  
 16 you mentioned that on April 17th Carmen Elizondo --  
 17 April 17th of 2013, Carmen Elizondo told you that to  
 18 come back to work you needed a doctor's note without  
 19 restrictions. Is that what you said?  
 17:04:43 20 MR. BARBOUR: Objection; leading.  
 21 THE WITNESS: Yes.  
 22 Q. (By Mr. Crane) Was that accurate at the time  
 23 you said that?  
 24 **A. Yes.**  
 17:04:47 25 MR. BARBOUR: Objection; leading.

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1 **A. Yes.**  
 2 Q. After you were fired, did you have bills to  
 3 pay?  
 4 **A. Yes.**  
 17:05:39 5 MR. BARBOUR: Objection; leading.  
 6 Q. (By Mr. Crane) Did -- Did the bills stop?  
 7 **A. No.**  
 8 Q. Did -- When people send you bills, do they  
 9 stop -- do they say, "If you're still working, you need  
 17:05:47 10 to pay this bill"?  
 11 MR. BARBOUR: Objection; leading.  
 12 THE WITNESS: I still have to pay.  
 13 Q. (By Mr. Crane) Did you have financial issues  
 14 after you were fired?  
 17:05:53 15 **A. Yes.**  
 16 Q. What did you do to help deal with those  
 17 financial issues?  
 18 **A. I've had to take out loans and credit.**  
 19 Q. Did you get an exemption from the Bexar  
 17:06:05 20 Appraisal District for your -- for homestead?  
 21 **A. Yes.**  
 22 MR. BARBOUR: Objection; leading.  
 23 Q. (By Mr. Crane) Did that help with some bills?  
 24 **A. No.**  
 17:06:13 25 Q. No?

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1 going.  
 2 Q. Is -- You left the meeting in April of 2014,  
 3 and my understanding was UPS did not get back to you  
 4 with options or possibilities in how you could return to  
 17:53:21 5 work. Is that right?  
 6 A. That's correct.  
 7 Q. Is there anything more you would have liked to  
 8 hear from UPS regarding an interactive discussion on how  
 9 to accommodate you?  
 17:53:31 10 MR. BARBOUR: Objection; leading.  
 11 THE WITNESS: Yes. The -- The meeting  
 12 wasn't interactive, in my opinion. It was just a  
 13 reading of the checklist. There wasn't any proposals or  
 14 ideas offered at the time of the meeting. It was  
 17:53:47 15 basically read it and -- and leave.  
 16 So the only accommodations that were  
 17 discussed were ones that I had made as far as potential  
 18 jobs that I could do with UPS that I had done before.  
 19 (Exhibit 28 marked.)  
 17:54:19 20 Q. (By Mr. Crane) I'm showing you what's marked  
 21 Exhibit No. 28. It's -- You see it has an exhibit  
 22 number in front of Exhibit No. 8, but I wanted to ask  
 23 you to look at the second page.  
 24 A. Uh-huh.  
 17:54:35 25 Q. This -- You've seen this before? This was part

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1 consultant?  
 2 A. No.  
 3 Q. What's -- Is something missing, or is there  
 4 something in there that shouldn't be?  
 17:55:55 5 A. There's things that shouldn't be there that  
 6 don't apply.  
 7 Q. Well, can you point out what's not accurate  
 8 about it?  
 9 A. One example is "Ability to work varying shifts,  
 17:56:05 10 additional hours or overtime depending on service  
 11 needs." That's, like, the third or fourth one down.  
 12 Another would be...  
 13 "Cognitive ability to follow  
 14 directions...perform...may be assigned..."  
 17:56:29 15 I think there was one that -- I'm trying  
 16 to find it.  
 17 Q. I don't see anywhere on here that says you have  
 18 to be on the phone. Do you see a requirement to make  
 19 phone calls?  
 17:56:39 20 A. No. There's nothing pertaining to -- to phone  
 21 or -- or PC, that I can see, or a business plan or  
 22 accounts or -- No.  
 23 "Bend" -- Let's see. "Climb stairs and  
 24 walk intermittently throughout the workday" is not part  
 17:57:17 25 of the ISR position.

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1 of your EEOC file; is that correct?  
 2 A. Yes.  
 3 Q. And your understanding is this was UPS'  
 4 explanation to the EEOC regarding what your essential --  
 17:54:51 5 what your job description was. Is that -- Is that your  
 6 understanding?  
 7 A. Yes.  
 8 Q. Is this an acc -- As far as you can tell,  
 9 reading through this, is this an accurate description of  
 17:55:01 10 the job you had as of April of 2013?  
 11 A. No.  
 12 Q. What -- What is not accurate about it?  
 13 A. There's -- It doesn't really talk about what I  
 14 did as far as job responsibilities. It's rather --  
 17:55:17 15 It -- The closest thing it says under "position" is  
 16 maybe -- Well, there's a lot of those that do not apply  
 17 to me.  
 18 Q. Well, you're -- you're talking about  
 19 under the -- It lists several positions this covers. It  
 17:55:33 20 doesn't list ISR or franchise sales consultant anywhere.  
 21 Is that what you're saying?  
 22 A. That's correct.  
 23 Q. Well, look further down on the "essential job  
 24 functions." Does that ad -- adequately explain your  
 17:55:43 25 daily -- your day-to-day job as a franchise sales

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1 Q. Is there anything else?  
 2 A. Well, there's -- Yeah. I mean, there's  
 3 "handheld scanner."  
 4 Q. You're saying that's not there?  
 17:57:43 5 A. No, that is here. I -- It's -- I don't -- I  
 6 didn't work -- I wasn't in -- I didn't work in services  
 7 or distribution, so that -- that was -- did not apply to  
 8 me at all.  
 9 Q. Thank you, Mr. Gonzalez.  
 17:57:55 10 (5:58 p.m.)  
 11 EXAMINATION  
 12 BY MR. BARBOUR:  
 13 Q. Mr. Gonzalez, I have just a few wrap-up  
 14 questions. Let's stay on Exhibit 28, if you would, sir.  
 17:58:13 15 Are you familiar or have you -- Let me  
 16 strike that.  
 17 Have you previously reviewed any of UPS'  
 18 job models for the inside sales representative position?  
 19 A. Ones that you've submitted or that have been  
 17:58:27 20 submitted by UPS or --  
 21 Q. At all. Are you familiar with such a document,  
 22 an ISR job model?  
 23 A. Not until I saw it in an exhibit.  
 24 Q. Okay. When you were working with UPS, you  
 17:58:39 25 weren't familiar with that document?

73 (Pages 286 to 289)



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1 A. No.  
 2 Q. You don't know what information Mr. Hawthorne  
 3 or Ms. Lorio were looking at in terms of deciding  
 4 whether or not you could be reasonably accommodated; is  
 17:58:49 5 that right?  
 6 A. Well, Ms. Lorio was on the phone remotely, so I  
 7 know -- I don't know, and then Mr. Hawthorne was in  
 8 front of me and he, I believe, had just a Legal Pad and  
 9 just the accommodation checklist. That was all.  
 17:59:03 10 Q. This was during the checklist meeting, right?  
 11 A. Yes. That's been our only meeting.  
 12 Q. Right. And after that meeting, they -- they  
 13 said that the company would need to consider your  
 14 request in more detail before making a decision as to  
 17:59:15 15 whether or not it could accommodate you; is that right?  
 16 A. Yes. They said they needed some time to  
 17 evaluate.  
 18 Q. And you weren't privy to any of those  
 19 conversations or deliberations that happened after the  
 17:59:27 20 checklist meeting to determine whether or not you could  
 21 be reasonably accommodated?  
 22 A. No.  
 23 Q. Okay. So you don't know what documents or  
 24 materials they were consulting or looking at in making  
 17:59:35 25 that decision, do you?

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1 A. No.  
 2 Q. Okay. Did -- Did Mr. Hawthorne or Ms. Lorio  
 3 ever tell you that they were denying your request for  
 4 accommodation because of your inability to work varying  
 17:59:47 5 shifts, additional hours or overtime?  
 6 A. No. They didn't -- They didn't state anything.  
 7 Q. Right. So when I look at Exhibit 28, that line  
 8 on the "essential job functions" wasn't something the  
 9 company relied on in telling you that you were unable to  
 18:00:03 10 return to work, was it?  
 11 A. This whole document?  
 12 Q. Just that one line.  
 13 A. That one line? Repeat your question, please.  
 14 Q. Yeah. Mr. -- Neither Mr. Hawthorne nor  
 18:00:15 15 Ms. Lorio told you that you couldn't return to work  
 16 because of your inability to work varying shifts,  
 17 additional hours and/or overtime depending on service  
 18 needs, did they?  
 19 A. No, they did not.  
 18:00:25 20 Q. Okay. I hate to go all the way back to the  
 21 beginning, but could you find Exhibit 1 for me,  
 22 Mr. Gonzalez?  
 23 MR. CRANE: Let me -- Let me help you.  
 24 Q. (By Mr. Barbour) And keep Exhibit No. 28 there,  
 18:00:39 25 please, also.

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1 Okay. You have Exhibits 28 and Exhibit 1  
 2 in front of you; is that right?  
 3 A. Yes.  
 4 Q. On Exhibit 28, do you see the second-to-last  
 18:00:55 5 major bullet point that begins with "Demonstrate  
 6 cognitive ability to"?  
 7 A. Yes.  
 8 Q. And it lists out approximately eight or so  
 9 different essential functions and cognitive abilities  
 18:01:07 10 somebody has to do to perform the jobs listed above; is  
 11 that right?  
 12 A. Yes.  
 13 Q. Would you look at the second page of Exhibit 1,  
 14 Mr. Gonzalez?  
 18:01:13 15 A. The one dated February 20th, 2015?  
 16 Q. Yes, sir. I'm looking at the page that's "929"  
 17 in the lower right-hand corner.  
 18 A. 929. Okay.  
 19 Q. Are you with me?  
 18:01:33 20 A. Yes, sir.  
 21 Q. And we discussed this previously, where you had  
 22 written -- written to the EEOC and listed what -- the  
 23 essential functions of your last position with UPS.  
 24 You recall that testimony, right?  
 18:01:41 25 A. Yes.

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1 Q. And specifically you testified about what you  
 2 had told the EEOC some of the cognitive abilities were  
 3 that were essential functions of that job.  
 4 Do you recall that testimony?  
 18:01:51 5 A. Yes.  
 6 Q. Okay. It -- It would be fair to say that you  
 7 have literally typed out verbatim, on that bullet point  
 8 that begins with "Demonstrative [sic] cognitive  
 9 ability," the exact same job functions that are listed  
 18:02:07 10 at the bottom of Exhibit No. 28. Haven't you?  
 11 A. No, I did not do that.  
 12 Q. Let's go line by line. You see Exhibit 28  
 13 where it says, "Demonstrate cognitive ability to"?  
 14 A. Yes, I do.  
 18:02:21 15 Q. Okay. Do you see where you've written,  
 16 "Demonstrate cognitive ability to," on Exhibit 1?  
 17 A. Okay. Give me a second. Okay.  
 18 Q. Am I correct that you -- on Exhibit 1 --  
 19 A. "Concentrate" --  
 18:02:37 20 Q. -- you typed out, "Demonstrate cognitive  
 21 ability to"?  
 22 A. Yes. I do see that.  
 23 Q. Okay. And then after that, you wrote, "Ability  
 24 to follow directions and routine." Is that correct?  
 18:02:47 25 A. Yes.

74 (Pages 290 to 293)



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1 Q. And that is the very next line on Exhibit 28,  
2 is it not?  
3 A. Tell me again which one you're reading.  
4 Q. If you --  
18:02:59 5 A. "Concentrate, memorize, recall, identify  
6 legal" ...  
7 Q. My question is: Haven't you written out all of  
8 those functions under "cognitive ability" from  
9 Exhibit 28 on your submission to the EEOC that's  
18:03:13 10 Exhibit 1?  
11 A. Yes, that is -- those are on there.  
12 Q. Okay. And, in fact, on Exhibit 28, right above  
13 the "cognitive abilities," it lists out, "work  
14 cooperatively in a diverse environment," doesn't it?  
18:03:29 15 A. Yes.  
16 Q. You also wrote that to the EEOC on Exhibit 1 as  
17 one of your essential functions; is that correct?  
18 A. Yes.  
19 Q. Okay. And the "ability to communicate" is also  
18:03:41 20 reflected on Exhibit 1 and Exhibit 28, is it not?  
21 A. Yes.  
22 Q. Okay. "Performing simple office tasks" is also  
23 reflected on Exhibit 1, your submission to the EEOC, and  
24 Exhibit 28, isn't it?  
18:03:57 25 A. Yes.

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1 Q. So you would agree that Exhibit 28 does reflect  
2 many of your essential job functions of your last  
3 position with UPS, doesn't it?  
4 A. It -- Yes, it does, in that -- that portion of  
18:04:11 5 it.  
6 Q. You never asked UPS to provide you with -- with  
7 any Dragon or other translating software for your use,  
8 did you?  
9 A. No, I did not.  
18:04:23 10 Q. Okay.  
11 A. I asked for an accommodation or accommodations,  
12 but not that one specifically.  
13 Q. That software, if it was given to you, would  
14 have accommodated your sometimes inability to type,  
18:04:35 15 wouldn't it?  
16 A. Yes.  
17 Q. That software would not have, for example,  
18 accommodated your inability to make decisions, would it?  
19 A. We -- I don't know that.  
18:04:45 20 Q. You can't state for certainty today that it  
21 would have accommodated that, could you?  
22 A. I believe it -- I might could have done the  
23 job.  
24 Q. Do you -- And I'm asking about the software  
18:04:55 25 specifically, that Dragon software we discussed.

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1 A. I -- I have --  
2 Q. Would --  
3 A. -- no way of speculating or knowing how that  
4 software would have impacted my day. I feel it would  
18:05:05 5 have helped.  
6 My doctors have stated, if I can return to  
7 work with some accommo -- accommodation or  
8 accommodations, that probably would help.  
9 Q. It would have helped you get around the burden  
18:05:19 10 of sometimes having to type?  
11 A. Yeah. That particular accommodation would  
12 have, yes.  
13 Q. Okay. Is it your testimony that your sales  
14 positions with UPS don't require you to make decisions?  
18:05:31 15 A. They -- As far as simple decisions of, you  
16 know, if I need to go to the bathroom -- go to the  
17 bathroom, I can do that.  
18 Pick up the phone, work the TEAMS program,  
19 look up -- go to the billing center, teach people how --  
18:05:49 20 or set up programs like Quantum View Manage, things like  
21 that, yes, I can still do all of those things.  
22 Q. Okay. My -- My question, though, was: Was it  
23 your testimony earlier that you didn't have to make  
24 decisions in your day-to-day work for UPS?  
18:06:05 25 A. I did say that, if it was in a managerial

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1 role --  
2 Q. Right.  
3 A. -- which I was not.  
4 Q. You had to decide what your clients' needs  
18:06:15 5 were, didn't you?  
6 A. Yes.  
7 Q. You had to decide what UPS products and  
8 services would be able to serve those clients' needs,  
9 wouldn't you?  
18:06:21 10 A. Yes.  
11 Q. You would have to decide what type of sales  
12 strategy to use in selling those customers those  
13 products and solutions, wouldn't you?  
14 A. Yes.  
18:06:31 15 Q. You would have to decide, if a customer had a  
16 concern, who the appropriate individual within the  
17 company would be to direct that concern to, wouldn't  
18 you?  
19 A. Yes.  
18:06:41 20 Q. And you would have to decide how to monitor  
21 your customers' compliance with the agreements that they  
22 had already entered into, wouldn't you?  
23 A. Yes.  
24 Q. And I'm sure that there's probably a myriad  
18:06:53 25 other decisions that you may have to make in the

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1 day-to-day work as a sales rep for UPS, isn't there?  
 2 **A. Sure. It's -- It's -- I -- I would have to --**  
 3 **As I do know, I know how to operate the programs.**  
 4 Q. Okay. On Exhibit 26, which was the  
 18:07:07 5 February 11th, 2014 letter to -- from Dr. Sledge -- I  
 6 really just have one question. We -- We can wait for  
 7 it.  
 8 Do you know whether you submitted  
 9 Exhibit 26 to UPS at any point, Mr. Gonzalez?  
 18:07:37 10 **A. And tell me again what that exhibit was.**  
 11 Q. Let's pull it out. Let's get the exhibit in  
 12 front of you.  
 13 MR. CRANE: Almost there.  
 14 MR. BARBOUR: There we go.  
 18:07:45 15 Q. (By Mr. Barbour) All right. You have  
 16 Exhibit 26 in front of you, right, Mr. Gonzalez?  
 17 **A. Yes.**  
 18 Q. And this is the February 11th, 2014 letter from  
 19 Dr. Sledge, correct?  
 18:07:51 20 **A. Yes.**  
 21 Q. This letter is not addressed to anyone in  
 22 particular, is it?  
 23 **A. No.**  
 24 Q. Okay. Did you personally ever provide this  
 18:08:01 25 letter to anyone at UPS?

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1 **A. No, not that I recall.**  
 2 Q. Did Dr. Sledge ever tell you that he provided  
 3 the letter to anyone at UPS?  
 4 **A. Through Aetna, or...**  
 18:08:15 5 Q. Did Dr. Sledge ever tell you that he sent this  
 6 specific letter to anyone at UPS?  
 7 **A. No.**  
 8 Q. Okay. And, in fact, Dr. Sledge wasn't the  
 9 doctor who signed your request for medical information  
 18:08:25 10 in relationship to your request for accommodation, was  
 11 he?  
 12 **A. Say that question again, please.**  
 13 Q. Dr. Martinez was the one who submitted your --  
 14 **A. Yes.**  
 18:08:37 15 Q. -- your medical information --  
 16 **A. Correct.**  
 17 Q. -- relative to your request for accommodation;  
 18 is that right?  
 19 **A. That's correct.**  
 18:08:41 20 Q. Okay. It was not Dr. Sledge who provided that  
 21 information --  
 22 **A. No, it was not.**  
 23 Q. -- to UPS?  
 24 If we can find Exhibit 27 really quickly,  
 18:08:53 25 which is the letter from Dr. Emmett. Here we go.

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1 You have Exhibit 27 --  
 2 **A. Yes.**  
 3 Q. -- is that right?  
 4 **A. Yes.**  
 18:09:01 5 Q. Degrees weren't required for promotion within  
 6 UPS as of 2014, were they?  
 7 **A. You had to be working -- You had to be either**  
 8 **enrolled in college in order to -- to advance, to be**  
 9 **promoted.**  
 18:09:15 10 Q. Okay.  
 11 **A. So you either had to have a degree or you had**  
 12 **to be in school.**  
 13 Q. Okay. And you were in school; is that correct?  
 14 **A. Yes.**  
 18:09:21 15 Q. Okay. This letter from Dr. Emmett that's dated  
 16 February 4th, 2014, you never provided this letter to  
 17 UPS, did you?  
 18 **A. I don't recall for sure or not if I did.**  
 19 Q. Okay. You have no recollection of giving --  
 18:09:37 20 **A. I don't recollect, no.**  
 21 Q. Okay. In fact, the letter is addressed to  
 22 Thomas Edison State College; is that right?  
 23 **A. Yes.**  
 24 Q. Okay. And did Dr. Emmett ever tell you that he  
 18:09:47 25 had submitted Exhibit 27 to anyone at UPS?

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1 **A. No.**  
 2 Q. And this is written February 4th, 2014,  
 3 correct?  
 4 **A. Yes.**  
 18:09:57 5 Q. That would have been the very next day after  
 6 you requested a reasonable accommodation from UPS; is  
 7 that correct?  
 8 **A. Yeah. I'm not looking at the checklist,**  
 9 **but that's the date you're talking about?**  
 18:10:11 10 Q. Well, earlier we had looked at an e-mail from  
 11 Ms. Lorio to you --  
 12 **A. Okay.**  
 13 Q. -- where she said, on February 3rd --  
 14 **A. Uh-huh.**  
 18:10:19 15 Q. -- 2014, you requested a job-related  
 16 accommodation.  
 17 **A. Okay.**  
 18 Q. Do you recall that e-mail?  
 19 **A. Yes.**  
 18:10:23 20 Q. If that's correct, this would have been the  
 21 very next day after you submitted that request to UPS,  
 22 wouldn't it?  
 23 **A. Yeah. It's dated the very next day.**  
 24 Q. Okay.  
 18:10:31 25 **A. I mean, the doctor didn't do it the same day.**

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1 **He had some time to do --**  
 2 Q. Okay.  
 3 **A. -- to write the letter up.**  
 4 Q. And Mr. Crane had directed you to -- to the  
 18:10:39 5 second paragraph of the substance of -- of the letter  
 6 down below.  
 7 Could you read into the record the -- the  
 8 sentence that begins with "Patient is frequently,"  
 9 please?  
 18:10:49 10 **A. "Patient is frequently incapacitated by his**  
 11 **pain levels and, when taking medication to control said**  
 12 **pain, is unable to concentrate, attend and recall**  
 13 **significant material he may have read or heard.**  
 14 **This" --**  
 18:11:03 15 Q. And -- And you were taking medication -- pain  
 16 medication as of February 4th, 2014; is that right?  
 17 **A. Yes.**  
 18 Q. I think we discussed the Percocet you were  
 19 taking at that point, right?  
 18:11:13 20 **A. Yes.**  
 21 Q. And you were taking Lyrica, as well, at that  
 22 point, weren't you?  
 23 **A. Yes, I believe so.**  
 24 Q. And you told Mr. Crane earlier that  
 18:11:21 25 Dr. Emmett's letter accurately set forth your physical

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1 Q. You were receiving Aetna income-replacement  
 2 benefits; is that correct?  
 3 **A. For some time -- For some time, yes.**  
 4 Q. Right. And that -- Aetna long-term disability  
 18:12:43 5 benefits, those were actually as a result of a  
 6 UPS-paid-for LTD policy, weren't they?  
 7 **A. UPS-paid-for? I -- I'm not sure how that was**  
 8 **allocated as far as accounting's concerned. I know I**  
 9 **had benefits I paid for.**  
 18:12:59 10 Q. Okay. And -- But you continued to receive  
 11 income -- some income throughout much of this period of  
 12 time; is that correct?  
 13 **A. Yes.**  
 14 Q. And we discussed all the jobs that you had  
 18:13:09 15 applied for that you can recall applying for --  
 16 **A. Yes. That I could recall, yes.**  
 17 Q. All right. Earlier you had mentioned some  
 18 negative income you had as a result of payroll  
 19 deductions, or something along those lines; is that  
 18:13:23 20 correct?  
 21 **A. Yeah. It was an offset.**  
 22 Q. All right. It -- It was an offset against your  
 23 Aetna long-term disability payments --  
 24 **A. Correct.**  
 18:13:31 25 Q. -- wasn't it?

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1 condition and circumstances as of that date; is that  
 2 right?  
 3 **A. I believe that's correct, yes.**  
 4 Q. Okay. Just a couple last questions.  
 18:11:33 5 You had mentioned some financial issues  
 6 you had following your termination of employment from  
 7 UPS. Do you recall that testimony?  
 8 **A. Yes.**  
 9 Q. Okay. Specifically you recalled some loans  
 18:11:43 10 that you had taken out following your termination; is  
 11 that correct?  
 12 **A. Yes.**  
 13 Q. When did you take these loans out?  
 14 **A. Over a year -- Well, somewhere -- loans -- I**  
 18:11:59 15 **mean, there was some loans -- personal loans, and**  
 16 **there's also credit cards. So anywhere from a year, two**  
 17 **years, roughly.**  
 18 Q. For what purposes did you use these credit  
 19 cards and take out these personal loans?  
 18:12:13 20 **A. The most -- Much of it was for -- to pay bills**  
 21 **and to -- medical bills, and I also paid for some**  
 22 **infusions.**  
 23 Q. You were receiving Social Security disability  
 24 benefits throughout this period of time, correct?  
 18:12:33 25 **A. Yes.**

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1 Right. What happened was, Aetna continued  
 2 paying you beyond the two-year term of your plan; is  
 3 that right?  
 4 **A. No.**  
 18:13:37 5 Q. No?  
 6 How do you understand that Aetna ended up  
 7 debiting your long-term disability payments?  
 8 **A. The offset -- offset was created because I was**  
 9 **approved for Social Security benefits, and Social**  
 18:13:51 10 **Security provided a -- 12 or 18 months in backpay.**  
 11 **And per the summary plan, if I were to get**  
 12 **the -- I had to apply for Social Security or they would**  
 13 **calculate what my benefit would be, and I had to show**  
 14 **them the documentation that I had applied, and -- and if**  
 18:14:13 15 **I got approved, I had to show them the documentation**  
 16 **that I was approved.**  
 17 **And per the SPD, I had to pay back the --**  
 18 **any monies received from Social Security.**  
 19 Q. You paid that back to Aetna; is that correct?  
 18:14:25 20 **A. I did not. I -- The money was used to pay**  
 21 **bills, so Aetna, based on the approved disability at the**  
 22 **time, started deducting what I owed them per month off**  
 23 **of the benefits they were paying.**  
 24 Q. Okay. So Aetna deducted that from your Aetna  
 18:14:45 25 long-term disability payments?

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RONALD D. GONZALEZ

RONALD GONZALEZ v. UNITED PARCEL SERVICE

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1 **A. Correct.**  
 2 Q. Right. UPS never deducted anything from your  
 3 pay; is that correct --  
 4 **A. Right.**  
 18:14:51 5 Q. -- in relationship to that?  
 6 **A. That's correct.**  
 7 Q. Right. All of this happened after you had  
 8 already been separated from employment with UPS?  
 9 **A. Yes.**  
 18:14:59 10 MR. BARBOUR: All right. I'll pass the  
 11 witness.  
 12 MR. CRANE: No other questions. Thank  
 13 you.  
 14 THE VIDEOGRAPHER: The time is 6:15 p.m.,  
 18:15:05 15 and this concludes today's deposition.  
 16 We are off the record.  
 17 (Deposition concluded.)  
 18  
 19  
 18:17:31 20  
 21  
 22  
 23  
 24  
 25

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1 I, RONALD D. GONZALEZ, have read the  
 2 foregoing deposition and hereby affix my signature that  
 3 same is true and correct, except as noted above.  
 4  
 5 \_\_\_\_\_  
 6 RONALD D. GONZALEZ  
 7 THE STATE OF \_\_\_\_\_:  
 8 COUNTY OF \_\_\_\_\_:  
 9  
 10 Before me, \_\_\_\_\_, on this  
 11 day personally appeared RONALD D. GONZALEZ, known to me  
 12 (or proved to me under oath or through  
 13 \_\_\_\_\_) (description of identity card or  
 14 other document) to be the person whose name is  
 15 subscribed to the foregoing instrument and acknowledged  
 16 to me that they executed the same for the purposes and  
 17 consideration therein expressed.  
 18 Given under my hand and seal of office  
 19 this \_\_\_\_\_ day of \_\_\_\_\_, 2017.  
 20  
 21 \_\_\_\_\_  
 22 NOTARY PUBLIC IN AND FOR  
 23 THE STATE OF \_\_\_\_\_  
 24  
 25

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1 CHANGES AND SIGNATURE  
 2 RONALD D. GONZALEZ MAY 24, 2017  
 3 PAGE LINE CHANGE REASON  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_  
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 24 \_\_\_\_\_  
 25 \_\_\_\_\_

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1 IN THE UNITED STATES DISTRICT COURT  
 2 WESTERN DISTRICT OF TEXAS  
 3 SAN ANTONIO DIVISION  
 4 RONALD GONZALEZ, )  
 5 Plaintiff, )  
 6 )  
 7 VS. ) CIVIL ACTION: 5:15-CV-986 RCL  
 8 )  
 9 UNITED PARCEL SERVICE, )  
 10 Defendant. )  
 11  
 12 REPORTER'S CERTIFICATION  
 13 DEPOSITION OF RONALD D. GONZALEZ  
 14 MAY 24, 2017  
 15  
 16 I, JULIE VERASTEGUI, a Certified Shorthand  
 17 Reporter in and for the State of Texas, do hereby  
 18 certify to the following:  
 19 That the witness, RONALD D. GONZALEZ, was duly  
 20 sworn by the officer and that the transcript of the oral  
 21 & video deposition is a true record of the testimony  
 22 given by the witness;  
 23 That the deposition transcript was submitted  
 24 on \_\_\_\_\_ to the witness, by and through his  
 25 attorney, THOMAS J. CRANE, for examination, signature  
 and return to me by \_\_\_\_\_.  
 That pursuant to information given to the  
 deposition officer at the time said testimony was taken,  
 the following includes counsel for all parties of

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1 record:  
2  
3 THOMAS J. CRANE & SUSAN CONE KILGORE  
4 Attorneys for the Plaintiff;  
5 SHANNON B. SCHMOYER, CHRISTINE E. REINHARD  
6 & JUSTIN BARBOUR  
7 Attorneys for the Defendant.  
8  
9 I further certify that I am neither counsel  
10 for, related to, nor employed by any of the parties or  
11 attorneys in the action in which this proceeding was  
12 taken, and further that I am not financially or  
13 otherwise interested in the outcome of the action.  
14 Further certification requirements will be  
15 certified to after they have occurred.  
16 Certified to by me this \_\_\_\_ day of  
17 \_\_\_\_\_, 2017.  
18  
19 \_\_\_\_\_  
20 JULIE VERASTEGUI, CSR 7637  
21 Expiration Date: 12/31/18  
22 Firm Registration No. 93  
23 Hoffman Reporting  
24 206 East Locust Street  
25 San Antonio, Texas 78212  
Telephone: 210.736.3555  
Fax: 210.736.6679

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1 FURTHER CERTIFICATION  
2  
3 The original deposition was/was not  
4 returned to the deposition officer on \_\_\_\_\_;  
5 If returned, the attached Changes and  
6 Signature page contains any changes and the reasons  
7 therefor;  
8 If returned, the original deposition was  
9 delivered to JUSTIN BARBOUR, Custodial Attorney;  
10 That \$ \_\_\_\_\_ is the deposition  
11 officer's charge to the DEFENDANT for preparing the  
12 original deposition transcript and any copies of  
13 exhibits;  
14 That the deposition was delivered and that  
15 a copy of this certificate was served on all parties  
16 shown herein and filed with the Clerk.  
17  
18 Certified to by me this \_\_\_\_ day of  
19 \_\_\_\_\_, 2017.  
20  
21 \_\_\_\_\_  
22 JULIE VERASTEGUI, CSR 7637  
23 Expiration Date: 12/31/18  
24 Firm Registration No. 93  
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